

Table of Contents

2013 Regular Session

Volume I

Chapters 1 - 134

CHAPTER 1 (HB 7, Damron and others)	1
CHAPTER 2 (HB 217, Riner and others)	2
CHAPTER 3 (SB 46, Smith)	12
CHAPTER 4 (SB 52, Turner and others)	12
CHAPTER 5 (SB 103, Harper Angel and others)	14
CHAPTER 6 (SB 34, Denton and others)	16
CHAPTER 7 (HB 430, Crenshaw and others)	17
CHAPTER 8 (HB 221, Thompson and Glenn)	29
CHAPTER 9 (SCR 35, Westerfield)	30
CHAPTER 10 (SB 93, Carpenter)	31
CHAPTER 11 (SB 97, Givens and Wilson)	32
CHAPTER 12 (SB 21, Higdon)	33
CHAPTER 13 (SB 32, Buford)	36
CHAPTER 14 (SB 56, Gibson)	37
CHAPTER 15 (SB 59, Wilson)	37
CHAPTER 16 (SB 67, Gregory)	48
CHAPTER 17 (SB 72, Blevins Jr. and others)	50
CHAPTER 18 (SB 83, Humphries)	51
CHAPTER 19 (SB 84, Stine and others)	64
CHAPTER 20 (SB 98, Turner)	65
CHAPTER 21 (SB 114, McDaniel and Girdler)	66
CHAPTER 22 (SB 120, Clark)	74
CHAPTER 23 (SCR 123, Seum)	79
CHAPTER 24 (SB 125, Buford and others)	80
CHAPTER 25 (HB 3, Lee and others)	81
CHAPTER 26 (HB 8, Dossett and Tilley)	95
CHAPTER 27 (HB 11, Riner and Floyd)	105
CHAPTER 28 (HB 49, Denham)	109
CHAPTER 29 (HB 60, Rudy and others)	110
CHAPTER 30 (HB 109, Jenkins and Miller)	111
CHAPTER 31 (HB 162, Horlander and others)	117
CHAPTER 32 (HB 167, Damron and others)	120
CHAPTER 33 (HB 173, Collins and Miller)	176

CHAPTER 34 (HB 174, Collins and others)	176
CHAPTER 35 (HB 219, Stewart III and others)	177
CHAPTER 36 (HB 260, Damron and others)	177
CHAPTER 37 (HB 319, Westrom)	180
CHAPTER 38 (HB 441, Clark)	188
CHAPTER 39 (HB 290, Riggs and others)	191
CHAPTER 40 (HB 1, Lee and others)	197
CHAPTER 41 (HB 39, Richards and others)	247
CHAPTER 42 (HB 45, Riner and Rollins II)	250
CHAPTER 43 (HB 63, Collins)	254
CHAPTER 44 (HB 100, Lee)	255
CHAPTER 45 (HB 102, Nelson)	257
CHAPTER 46 (HB 120, Horlander and Westrom)	260
CHAPTER 47 (HB 126, Yonts and Stone)	270
CHAPTER 48 (HB 145, Yonts)	273
CHAPTER 49 (HB 148, Koenig)	274
CHAPTER 50 (HB 150, Denham)	279
CHAPTER 51 (HB 153, Couch)	282
CHAPTER 52 (HB 172, DeWeese and others)	287
CHAPTER 53 (HB 176, Richards and others)	288
CHAPTER 54 (HB 179, Dossett)	289
CHAPTER 55 (HB 180, Rollins II)	289
CHAPTER 56 (HB 182, Rudy and others)	293
CHAPTER 57 (HB 184, Rollins II)	294
CHAPTER 58 (HB 192, Kerr and Simpson)	302
CHAPTER 59 (HB 207, Richards and others)	303
CHAPTER 60 (HB 234, Damron)	340
CHAPTER 61 (HB 273, Embry Jr. and others)	343
CHAPTER 62 (HB 281, Riggs and Hall)	344
CHAPTER 63 (HB 315, Damron)	346
CHAPTER 64 (HB 340, Gooch Jr. and others)	346
CHAPTER 65 (HB 343, Riggs and others)	351
CHAPTER 66 (HB 427, Sinnette)	352
CHAPTER 67 (HB 445, Combs and Overly)	358
CHAPTER 68 (SB 66, Leeper)	358
CHAPTER 69 (SB 78, Gregory)	362
CHAPTER 70 (SB 95, Stine and others)	375
CHAPTER 71 (SB 110, Thayer)	377
CHAPTER 72 (SB 122, Palmer II)	378
CHAPTER 73 (SB 150, Seum and others)	396

CHAPTER 74 (SB 188, Harris)	404
CHAPTER 75 (SB 202, Carpenter)	404
CHAPTER 76 (SJR 14, Blevins Jr. and others)	408
CHAPTER 77 (HB 41, Richards and others)	411
CHAPTER 78 (HB 66, Riggs and others)	415
CHAPTER 79 (HB 69, Greer and others)	433
CHAPTER 80 (HB 104, Marzian)	450
CHAPTER 81 (HB 125, Richards and others)	454
CHAPTER 82 (HB 161, Richards and others)	455
CHAPTER 83 (HB 164, Damron and others)	456
CHAPTER 84 (HB 181, Palumbo and others)	458
CHAPTER 85 (HB 205, Mayfield)	460
CHAPTER 86 (HB 220, Richards and others)	460
CHAPTER 87 (HB 222, Richards and others)	462
CHAPTER 88 (HB 232, Watkins)	468
CHAPTER 89 (HB 238, Crenshaw and Pullin)	475
CHAPTER 90 (HB 240, Rollins II)	476
CHAPTER 91 (HB 252, Coursey)	490
CHAPTER 92 (HB 261, Bell and others)	490
CHAPTER 93 (HB 269, Rollins II)	492
CHAPTER 94 (HB 313, Lee and Collins)	492
CHAPTER 95 (HB 320, Owens)	497
CHAPTER 96 (HB 338, Horlander)	503
CHAPTER 97 (HB 361, Riner and others)	504
CHAPTER 98 (HB 378, Riner and others)	512
CHAPTER 99 (HB 431, Palumbo)	513
CHAPTER 100 (HJR 45, Collins and others)	515
CHAPTER 101 (SB 15, Kerr and Wilson)	515
CHAPTER 102 (SB 18, Webb and others)	517
CHAPTER 103 (SB 27, Buford)	518
CHAPTER 104 (SB 61, Wilson)	520
CHAPTER 105 (SB 64, Wilson and Humphries)	530
CHAPTER 106 (SB 69, Gregory)	532
CHAPTER 107 (SB 75, Wilson)	544
CHAPTER 108 (SB 96, Higdon)	547
CHAPTER 109 (SB 107, Blevins Jr. and others)	548
CHAPTER 110 (SB 128, Westerfield and McDaniel)	549
CHAPTER 111 (HB 279, Gooch Jr. and others)	554
CHAPTER 112 (HB 27, Thompson)	554
CHAPTER 113 (HB 51, Stacy and others)	555
CHAPTER 114 (HB 149, Riner and others)	557

CHAPTER 115 (HB 177, Pullin and others)558

CHAPTER 116 (HB 212, Riggs and others)559

CHAPTER 117 (HB 272, Butler and others)564

CHAPTER 118 (HB 366, Burch)565

CHAPTER 119 (HB 440, Clark and Keene)576

CHAPTER 120 (SB 2, Thayer and others)612

CHAPTER 121 (SB 13, Blevins Jr. and others)712

CHAPTER 122 (SB 151, Carpenter)766

CHAPTER 123 (SB 152, Carpenter)767

CHAPTER 124 (HB 54, Thompson)777

CHAPTER 125 (HB 295, McKee and Denham)785

CHAPTER 126 (HB 354, Stacy and others)786

CHAPTER 127 (HB 385, Kerr and others)793

CHAPTER 128 (HB 390, Flood)795

CHAPTER 129 (HB 433, McKee and Denham)797

CHAPTER 130 (HCR 109, Gooch Jr.)798

CHAPTER 131 (SB 1, Stivers II and Westerfield)799

CHAPTER 132 (SB 3, Leeper and others)813

CHAPTER 133 (SB 8, Stine and others)814

CHAPTER 134 (SB 50, Blevins Jr. and others)821

CHAPTER 1**(HB 7)**

AN ACT authorizing bonds for postsecondary education capital projects, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

→Section 1. There is hereby appropriated to Morehead State University from Restricted Funds \$797,000 in fiscal year 2013-2014 for debt service to support Agency Bonds as set forth in this section. There is hereby authorized and appropriated \$9,268,000 in Agency Bonds in fiscal year 2012-2013 for renovation of Mignon Residence Hall at Morehead State University.

→Section 2. There is hereby appropriated to Murray State University from Restricted Funds \$851,000 in fiscal year 2013-2014 for debt service to support Agency Bonds as set forth in this section. There is hereby authorized and appropriated \$9,900,000 in Agency Bonds in fiscal year 2012-2013 for renovation of Hester Hall at Murray State University.

→Section 3. There is hereby appropriated to Murray State University from Restricted Funds \$427,000 in fiscal year 2013-2014 for debt service to support Agency Bonds as set forth in this section. There is hereby authorized and appropriated \$4,940,000 in Agency Bonds in fiscal year 2012-2013 for the capital renewal of housing and dining facilities projects under \$600,000 pool at Murray State University.

→Section 4. There is hereby appropriated to Murray State University from Restricted Funds \$56,000 in fiscal year 2013-2014 for debt service to support Agency Bonds as set forth in this section. There is hereby authorized and appropriated \$590,000 in Agency Bonds in fiscal year 2012-2013 for upgrading the sprinkler system at College Courts at Murray State University.

→Section 5. There is hereby appropriated to Northern Kentucky University from Restricted Funds \$3,866,000 in fiscal year 2013-2014 for debt service to support Agency Bonds as set forth in this section. In addition to existing appropriations as provided in 2012 Ky. Acts ch. 144, sec. 1, Part II Capital Projects Budget, J. Postsecondary Education, 7. Northern Kentucky University, 001., there is hereby authorized and appropriated \$45,000,000 in Agency Bonds in fiscal year 2012-2013 for renovation and expansion of Albright Health Center at Northern Kentucky University.

→Section 6. There is hereby appropriated to Northern Kentucky University from Restricted Funds \$1,031,000 in fiscal year 2013-2014 for debt service to support Agency Bonds as set forth in this section. There is hereby authorized and appropriated \$12,000,000 in Agency Bonds in fiscal year 2012-2013 for the acquisition and renovation of a new residence hall at Northern Kentucky University.

→Section 7. There is hereby appropriated to the University of Kentucky from Restricted Funds \$9,449,000 in fiscal year 2013-2014 for debt service to support Agency Bonds as set forth in this section. There is hereby authorized and appropriated \$110,000,000 in Agency Bonds in fiscal year 2012-2013 for renovation and expansion of Commonwealth Stadium and Nutter Training Center at the University of Kentucky.

→Section 8. There is hereby appropriated to the University of Kentucky from Restricted Funds \$8,590,000 in fiscal year 2013-2014 for debt service to support Agency Bonds as set forth in this section. There is hereby authorized and appropriated \$100,000,000 in Agency Bonds in fiscal year 2012-2013 for construction of the Academic Science Building at the University of Kentucky.

→Section 9. There is hereby appropriated to the University of Kentucky from Restricted Funds \$25,000,000 in fiscal year 2012-2013 for the expansion of the Gatton College of Business and Economics. There is hereby appropriated to the University of Kentucky \$3,437,000 in fiscal year 2013-2014 for debt service to support Agency Bonds as set forth in this section. There is hereby authorized and appropriated \$40,000,000 in Agency Bonds in fiscal year 2012-2013 for the expansion of the Gatton College of Business and Economics at the University of Kentucky.

→Section 10. There is hereby appropriated to the University of Louisville from Restricted Funds \$826,000 in fiscal year 2013-2014 for debt service to support Agency Bonds as set forth in this section. There is hereby authorized and appropriated \$9,600,000 in Agency Bonds in fiscal year 2012-2013 for expansion of the Student Activities Center at the University of Louisville.

→Section 11. There is hereby appropriated to Western Kentucky University from Restricted Funds \$1,890,000 in fiscal year 2013-2014 for debt service to support Agency Bonds as set forth in this section. There is hereby authorized and appropriated \$22,000,000 in Agency Bonds in fiscal year 2012-2013 for construction of the Honors College facility at Western Kentucky University.

➔Section 12. It is the intent of the 2013 General Assembly that postsecondary education institutions should not base any decision to proceed with any capital project authorized in this Act on an expectation of receiving General Fund moneys for the operation and maintenance of that facility in future biennia.

➔Section 13. All appropriations and authorizations to capital projects in this Act shall expire on June 30, 2014, unless reauthorized, with the following exceptions: (a) A construction or purchase contract for the project shall have been awarded by June 30, 2014; (b) Permanent financing or a short-term line of credit sufficient to cover the total authorized project scope shall have been obtained in the case of projects authorized for bonds, if the authorized project completes an initial draw on the line of credit within the fiscal biennium immediately subsequent to the original authorization; or (c) Grant or loan agreements, if applicable, shall have been finalized and properly signed by all necessary parties by June 30, 2014.

➔Section 14. The governing board of a public postsecondary institution shall certify in writing prior to issuance of Agency Bonds as set forth in this Act that the project: (a) Will generate sufficient funds to retire the bonded indebtedness and pay for ongoing operating expenses; or (b) Will not result in an increase in tuition. The governing board shall submit a copy of the certification to the President of the Council on Postsecondary Education, the Secretary of the Finance and Administration Cabinet, and the Capital Projects and Bond Oversight Committee.

➔Section 15. Whereas it is imperative that the commencement of these capital projects begin in fiscal year 2012-2013, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon it otherwise becoming law.

Signed by Governor February 21, 2013.

CHAPTER 2

(HB 217)

AN ACT relating to controlled substances and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 218A.172 is amended to read as follows:

- (1) ***Administrative regulations promulgated under subsection (3) of Section 4 of this Act shall require that, prior to the initial prescribing or dispensing of any Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone to a human patient, a practitioner shall:***
 - (a) Obtain a ~~complete~~ medical history and conduct a physical ***or mental health*** examination of the patient, ***as appropriate to the patient's medical complaint***, and document the information in the patient's medical record;
 - (b) Query the electronic monitoring system established in KRS 218A.202 for all available data on the patient ***for the twelve (12) month period immediately preceding the patient encounter and appropriately utilize that data in the evaluation and treatment of the patient;***
 - (c) Make a written ~~treatment~~ plan stating the objectives of the treatment and further diagnostic examinations required;
 - (d) Discuss the risks and benefits of the use of controlled substances with the patient, the patient's parent if the patient is an unemancipated minor child, or the patient's legal guardian or health care surrogate, including the risk of tolerance and drug dependence; and
 - (e) Obtain written consent for the treatment.
- (2) (a) ***Administrative regulations promulgated under subsection (3) of Section 4 of this Act shall require that a ~~the~~ practitioner prescribing or dispensing additional amounts of Schedule II controlled substances or Schedule III controlled substances containing hydrocodone for the same medical complaint and related symptoms shall:***
 1. ***Review ~~conduct~~, at reasonable intervals based on the patient's individual circumstances ~~and~~, ~~the~~ course of treatment, ***the plan of care;*** ~~and~~***

2. Provide to the patient any new information about the treatment; *and*
 3. *Modify or terminate the treatment as appropriate.*
- (b) *If the course of treatment extends beyond three (3) months, the administrative regulations shall also require that the practitioner:* ~~[shall include the practitioner querying]~~
1. *Query* the electronic monitoring system established in KRS 218A.202 no less than once every three (3) months for all available data on the patient *for the twelve (12) month period immediately preceding the query;* and
 2. *Review* ~~[reviewing]~~ that data before issuing any new prescription or refills for the patient for any Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone.
- (3) *Administrative regulations promulgated under subsection (3) of Section 4 of this Act shall require that,* for each patient for whom a practitioner prescribes any Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone, the practitioner shall keep accurate, readily accessible, and complete medical records which include, *as appropriate:*
- (a) Medical history and physical *or mental health* examination;
 - (b) Diagnostic, therapeutic, and laboratory results;
 - (c) Evaluations and consultations;
 - (d) Treatment objectives;
 - (e) Discussion of risk, benefits, and limitations of treatments;
 - (f) Treatments;
 - (g) Medications, including date, type, dosage, and quantity prescribed or dispensed;
 - (h) Instructions and agreements; and
 - (i) Periodic reviews of the patient's file.
- (4) *Administrative regulations promulgated under subsection (3) of Section 4 of this Act may exempt, in whole or in part, compliance with the mandatory diagnostic, treatment, review, and other protocols and standards established in this section for* ~~[This section shall not apply to:]~~
- (a) A licensee *prescribing or* administering a controlled substance ~~[or anesthesia]~~ immediately prior to, ~~[or]~~ during, *or within the fourteen (14) days following an operative or invasive procedure or a delivery if the prescribing or administering is medically related to the operative or invasive procedure or the delivery and the medication usage does not extend beyond the fourteen (14) days* ~~[surgery]~~;
 - (b) A licensee *prescribing or* administering a controlled substance necessary to treat a patient in an emergency situation ~~[-~~:
 1. ~~At the scene of an emergency;~~
 2. ~~In a licensed ground or air ambulance; or~~
 3. ~~In the emergency department or intensive care unit of a licensed hospital];~~
 - (c) A licensed pharmacist or other person licensed by the Kentucky Board of Pharmacy to dispense drugs or ~~[to]~~ a licensed pharmacy;
 - (d) A licensee prescribing or dispensing a controlled substance:
 1. *For administration in a hospital or long-term-care facility if the hospital or long-term-care facility with an institutional account, or a practitioner in those hospitals or facilities where no institutional account exists, queries the electronic monitoring system established in Section 3 of this Act for all available data on the patient or resident for the twelve (12) month period immediately preceding the query within twelve (12) hours of the patient's or resident's admission and places a copy of the query in the patient's or resident's medical records during the duration of the patient's stay at the facility;*
 2. *As part of the patient's hospice or end-of-life treatment;*
 3. *For the treatment of pain associated with cancer or with the treatment of cancer;*

4. *In a single dose to relieve the anxiety, pain, or discomfort experienced by a patient submitting to a diagnostic test or procedure;*
 5. *Within seven (7) days of an initial prescribing or dispensing under subsection (1) of this section if the prescribing or dispensing;*
 - a. *Is done as a substitute for the initial prescribing or dispensing;*
 - b. *Cancels any refills for the initial prescription; and*
 - c. *Requires the patient to dispose of any remaining unconsumed medication;*
 6. *Within ninety (90) days of an initial prescribing or dispensing under subsection (1) of this section if the prescribing or dispensing is done by another practitioner in the same practice or in an existing coverage arrangement, if done for the same patient for the same medical condition; or*
 7. *To a research subject enrolled in a research protocol approved by an institutional review board that has an active federalwide assurance number from the United States Department of Health and Human Services, Office for Human Research Protections where the research involves single, double, or triple blind drug administration or is additionally covered by a certificate of confidentiality from the National Institutes of Health*~~*for a hospice patient when functioning within the scope of a hospice program or hospice inpatient unit licensed under KRS Chapter 216B. The hospice program shall maintain a plan of care in accordance with federal regulations*~~;
 - (e) The prescribing of a Schedule III, IV, or V controlled substance by a licensed optometrist to a patient in accordance with the provisions of KRS 320.240; or
 - (f) The prescribing of a three (3) day supply of a Schedule III controlled substance following the performance of oral surgery by a dentist licensed pursuant to KRS Chapter 313.
- (5) (a) *A state licensing board promulgating administrative regulations under subsection (3) of Section 4 of this Act may promulgate an administrative regulation authorizing exemptions supplemental or in addition to those specified in subsection (4) of this section. Prior to exercising this authority, the board shall:*
1. *Notify the Kentucky Office of Drug Control Policy that it is considering a proposal to promulgate an administrative regulation authorizing exemptions supplemental or in addition to those specified in subsection (4) of this section and invite the office to participate in the board meeting at which the proposal will be considered;*
 2. *Make a factual finding based on expert testimony as well as evidence or research submitted to the board that the exemption demonstrates a low risk of diversion or abuse and is supported by the dictates of good medical practice; and*
 3. *Submit a report to the Governor and the Legislative Research Commission of its actions, including a detailed explanation of the factual and policy basis underlying the board's action. A copy of this report shall be provided to the regulations compiler.*
- (b) *Within one (1) working day of promulgating an administrative regulation authorizing an exemption under this section, the promulgating board shall e-mail to the Kentucky Office of Drug Control Policy:*
1. *A copy of the administrative regulation as filed, and all attachments required by KRS 13A.230(1); and*
 2. *A request from the board that the office review the administrative regulation in the same manner as would the Commission on Small Business Advocacy under KRS 11.202(1)(e), and submit its report or comments in accordance with the deadline established in KRS 13A.270(1)(c). A copy of the report or comments shall be filed with the regulations compiler.*
- ➔Section 2. KRS 218A.175 is amended to read as follows:
- (1) (a) As used in this section, "pain management facility" means a facility where the majority of patients of the practitioners at the facility are provided treatment for pain that includes the use of controlled substances and:

1. The facility's primary practice component is the treatment of pain; or
 2. The facility advertises in any medium for any type of pain management services.
- (b) "Pain management facility" does not include the following:
1. A hospital, including a critical access hospital, as defined in KRS Chapter 216, a facility owned by the hospital, or the office of a hospital-employed physician;
 2. A school, college, university, or other educational institution or program to the extent that it provides instruction to individuals preparing to practice as physicians, podiatrists, dentists, nurses, physician assistants, optometrists, or veterinarians;
 3. A hospice program or residential hospice facility licensed under KRS Chapter 216B;
 4. An ambulatory surgical center licensed under KRS Chapter 216B; or
 5. A long-term-care facility as defined in KRS 216.510.
- (2) Only a physician having a full and active license to practice medicine issued under KRS Chapter 311 shall have an ownership or investment interest in a pain management facility. Credit extended by a financial institution as defined in KRS 136.500 to the facility shall not be deemed an investment interest under this subsection. This ownership or investment requirement shall not be enforced against any pain management facility existing and operating on April 24, 2012, unless there is an administrative sanction or criminal conviction relating to controlled substances imposed on the facility, ~~or~~ any person employed by the facility, **or any person working at the facility as an independent contractor** for an act or omission done within the scope of the facility's licensure or the person's employment.
- (3) Regardless of the form of facility ownership, beginning on July 20, 2012, at least one (1) of the owners or an owner's designee who is a physician employed by and under the supervision of the owner shall be physically present practicing medicine in the facility for at least fifty percent (50%) of the time that patients are present in the facility, and that physician owner or designee shall:
- (a) Hold a current subspecialty certification in pain management by a member board of the American Board of Medical Specialties, or hold a current certificate of added qualification in pain management by the American Osteopathic Association Bureau of Osteopathic Specialists;
 - (b) Hold a current subspecialty certification in hospice and palliative medicine by a member board of the American Board of Medical Specialties, or hold a current certificate of added qualification in hospice and palliative medicine by the American Osteopathic Association Bureau of Osteopathic Specialists;
 - (c) Hold a current board certification by the American Board of Pain Medicine;
 - (d) Hold a current board certification by the American Board of Interventional Pain Physicians; ~~or~~
 - (e) Have completed ~~a~~ ~~an accredited residency or~~ fellowship in pain management **or an accredited residency program that included a rotation of at least five (5) months in pain management; or**
 - (f) **If the facility is operating under a registration filed with the Kentucky Board of Medical Licensure, have completed or hold, or be making reasonable progress toward completing or holding, a certification or training substantially equivalent to the certifications or training specified in this subsection, as authorized by the Kentucky Board of Medical Licensure by administrative regulation.**
- (4) A pain management facility shall accept private health insurance as one (1) of the facility's allowable forms of payment for goods or services provided and shall accept payment for services rendered or goods provided to a patient only from the patient or the patient's insurer, guarantor, spouse, parent, guardian, or legal custodian.
- (5) If the pain management facility is operating under a license issued by the cabinet, the cabinet shall include and enforce the provisions of this section as additional conditions of that licensure. If the pain management facility is operating as the private office or clinic of a physician under KRS 216B.020(2), the Kentucky Board of Medical Licensure shall enforce the provisions of this section. The provisions of this subsection shall not apply to the investigation or enforcement of criminal liability.
- (6) Any person who violates the provisions of this section shall be guilty of a Class A misdemeanor.
- ➔Section 3. KRS 218A.202 is amended to read as follows:
- (1) The Cabinet for Health and Family Services shall establish an electronic system for monitoring Schedules II, III, IV, and V controlled substances that are dispensed within the Commonwealth by a practitioner or

pharmacist or dispensed to an address within the Commonwealth by a pharmacy that has obtained a license, permit, or other authorization to operate from the Kentucky Board of Pharmacy. The cabinet may contract for the design, upgrade, or operation of this system if the contract preserves all of the rights, privileges, and protections guaranteed to Kentucky citizens under this chapter and the contract requires that all other aspects of the system be operated in conformity with the requirements of this or any other applicable state or federal law.

- (2) A practitioner or a pharmacist authorized to prescribe or dispense controlled substances to humans shall register with the cabinet to use the system provided for in this section and shall maintain such registration continuously during the practitioner's or pharmacist's term of licensure and shall not have to pay a fee or tax specifically dedicated to the operation of the system.
- (3) Every dispenser within the Commonwealth who is licensed, *permitted, or otherwise authorized* to prescribe or dispense a controlled substance *to a person in Kentucky*~~other than by the Board of Pharmacy, or any other dispenser who has obtained a license, permit, or other authorization to operate from the Kentucky Board of Pharmacy,~~ shall report to the Cabinet for Health and Family Services the data required by this section~~as prescribed by the cabinet by administrative regulation until July 1, 2013, at which time the report shall be filed with the cabinet within one (1) day of the dispensing~~, except that reporting shall not be required for:
 - (a) A drug~~, other than any Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone,~~ administered directly to a patient *in a hospital, a resident of a health care facility licensed under KRS Chapter 216B, a resident of a child-caring facility as defined by KRS 199.011, or an individual in a jail, correctional facility, or juvenile detention facility;* ~~or~~
 - (b) A drug, other than any Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone, dispensed by a practitioner at a facility licensed by the cabinet, provided that the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of forty-eight (48) hours; *or*
 - (c) *A drug administered or dispensed to a research subject enrolled in a research protocol approved by an institutional review board that has an active federalwide assurance number from the United States Department of Health and Human Services, Office for Human Research Protections where the research involves single, double, or triple blind drug administration or is additionally covered by a certificate of confidentiality from the National Institutes of Health.*
- (4) Data for each controlled substance that is dispensed shall include but not be limited to the following:
 - (a) Patient identifier;
 - (b) National drug code of the drug dispensed;
 - (c) Date of dispensing;
 - (d) Quantity dispensed;
 - (e) Prescriber; and
 - (f) Dispenser.
- (5) The data shall be provided in the electronic format specified by the Cabinet for Health and Family Services unless a waiver has been granted by the cabinet to an individual dispenser. The cabinet shall establish acceptable error tolerance rates for data. Dispensers shall ensure that reports fall within these tolerances. Incomplete or inaccurate data shall be corrected upon notification by the cabinet if the dispenser exceeds these error tolerance rates.
- (6) The Cabinet for Health and Family Services shall only disclose data to persons and entities authorized to receive that data under this section. Disclosure to any other person or entity, including disclosure in the context of a civil action where the disclosure is sought either for the purpose of discovery or for evidence, is prohibited unless specifically authorized by this section. The Cabinet for Health and Family Services shall be authorized to provide data to:
 - (a) A designated representative of a board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other person who is authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;

- (b) Employees of the Office of the Inspector General of the Cabinet for Health and Family Services who have successfully completed training for the electronic system and who have been approved to use the system, Kentucky Commonwealth's attorneys and assistant Commonwealth's attorneys, county attorneys and assistant county attorneys, a peace officer certified pursuant to KRS 15.380 to 15.404, a certified or full-time peace officer of another state, or a federal peace officer whose duty is to enforce the laws of this Commonwealth, of another state, or of the United States relating to drugs and who is engaged in a bona fide specific investigation involving a designated person;
- (c) A state-operated Medicaid program in conformity with subsection (7) of this section;
- (d) A properly convened grand jury pursuant to a subpoena properly issued for the records;
- (e) A practitioner or pharmacist, or employee of the practitioner's or pharmacist's practice acting under the specific direction of the practitioner or pharmacist, who requests information and certifies that the requested information is for the purpose of:
 1. Providing medical or pharmaceutical treatment to a bona fide current or prospective patient; or
 2. Reviewing and assessing the individual prescribing or dispensing patterns of the practitioner or pharmacist or to determine the accuracy and completeness of information contained in the monitoring system;
- (f) *The chief medical officer of a hospital or long-term-care facility, an employee of the hospital or long-term-care facility as designated by the chief medical officer and who is working under his or her specific direction, or a physician designee if the hospital or facility has no chief medical officer, if the officer, employee, or designee certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current or prospective patient or resident in the hospital or facility;*
- (g) In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Medical Licensure, for any physician who is:
 1. Associated in a partnership or other business entity with a physician who is already under investigation by the Board of Medical Licensure for improper prescribing or dispensing practices;
 2. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring; or
 3. In a designated geographic area for which a report on another physician in that area indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring in that area;
- ~~(h)~~~~(g)~~ In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Nursing, for any advanced practice registered nurse who is:
 1. Associated in a partnership or other business entity with a physician who is already under investigation by the Kentucky Board of Medical Licensure for improper prescribing or dispensing practices;
 2. Associated in a partnership or other business entity with an advanced practice registered nurse who is already under investigation by the Board of Nursing for improper prescribing practices;
 3. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring; or
 4. In a designated geographic area for which a report on a physician or another advanced practice registered nurse in that area indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring in that area;~~[-or-]~~
- ~~(i)~~~~(h)~~ A judge or a probation or parole officer administering a diversion or probation program of a criminal defendant arising out of a violation of this chapter or of a criminal defendant who is documented by the court as a substance abuser who is eligible to participate in a court-ordered drug diversion or probation program; **or**
- (j) *A medical examiner engaged in a death investigation pursuant to KRS 72.026.*

- (7) The Department for Medicaid Services shall use any data or reports from the system for the purpose of identifying Medicaid providers or recipients whose prescribing, dispensing, or usage of controlled substances may be:
- (a) Appropriately managed by a single outpatient pharmacy or primary care physician; or
 - (b) Indicative of improper, inappropriate, or illegal prescribing or dispensing practices by a practitioner or drug seeking by a Medicaid recipient.
- (8) A person who receives data or any report of the system from the cabinet shall not provide it to any other person or entity except as provided in this section, in another statute, or by order of a court of competent jurisdiction and only to a person or entity authorized to receive the data or the report under this section, except that:
- (a) A person specified in subsection (6)(b) of this section who is authorized to receive data or a report may share that information with any other persons specified in subsection (6)(b) of this section authorized to receive data or a report if the persons specified in subsection (6)(b) of this section are working on a bona fide specific investigation involving a designated person. Both the person providing and the person receiving the data or report under this paragraph shall document in writing each person to whom the data or report has been given or received and the day, month, and year that the data or report has been given or received. This document shall be maintained in a file by each agency engaged in the investigation;
 - (b) A representative of the Department for Medicaid Services may share data or reports regarding overutilization by Medicaid recipients with a board designated in subsection (6)(a) of this section, or with a law enforcement officer designated in subsection (6)(b) of this section;
 - (c) The Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B;~~and~~
 - (d) ***If a state licensing board as defined in Section 4 of this Act initiates formal disciplinary proceedings against a licensee, and data obtained by the board is relevant to the charges, the board may provide the data to the licensee and his or her counsel, as part of the notice process required by KRS 13B.050, and admit the data as evidence in an administrative hearing conducted pursuant to KRS Chapter 13B, with the board and licensee taking all necessary steps to prevent further disclosure of the data; and***
 - (e) A practitioner, pharmacist, or employee who obtains data under subsection (6)(e) of this section may share the report with the patient or person authorized to act on the patient's behalf and place the report in the patient's medical record, with that individual report then being deemed a medical record subject to disclosure on the same terms and conditions as an ordinary medical record in lieu of the disclosure restrictions otherwise imposed by this section.
- (9) The Cabinet for Health and Family Services, all peace officers specified in subsection (6)(b) of this section, all officers of the court, and all regulatory agencies and officers, in using the data for investigative or prosecution purposes, shall consider the nature of the prescriber's and dispenser's practice and the condition for which the patient is being treated.
- (10) The data and any report obtained therefrom shall not be a public record, except that the Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.
- (11) Intentional failure by a dispenser to transmit data to the cabinet as required by subsection (3), (4), or (5) of this section shall be a Class B misdemeanor for the first offense and a Class A misdemeanor for each subsequent offense.
- (12) Intentional disclosure of transmitted data to a person not authorized by subsection (6) to subsection (8) of this section or authorized by KRS 315.121, or obtaining information under this section not relating to a bona fide specific investigation, shall be a Class B misdemeanor for the first offense and a Class A misdemeanor for each subsequent offense.
- (13) (a) The Commonwealth Office of Technology, in consultation with the Cabinet for Health and Family Services, may submit an application to the United States Department of Justice for a drug diversion grant to fund a pilot or continuing project to study, create, or maintain a real-time electronic monitoring system for Schedules II, III, IV, and V controlled substances.

- (b) The pilot project shall:
 - 1. Be conducted in two (2) rural counties that have an interactive real-time electronic information system in place for monitoring patient utilization of health and social services through a federally funded community access program; and
 - 2. Study the use of an interactive system that includes a relational data base with query capability.
 - (c) Funding to create or maintain a real-time electronic monitoring system for Schedules II, III, IV, and V controlled substances may be sought for a statewide system or for a system covering any geographic portion or portions of the state.
- (14) Provisions in this section that relate to data collection, disclosure, access, and penalties shall apply to the pilot project authorized under subsection (13) of this section.
- (15) The Cabinet for Health and Family Services may, by promulgating an administrative regulation, limit the length of time that data remain in the electronic system. Any data removed from the system shall be archived and subject to retrieval within a reasonable time after a request from a person authorized to review data under this section.
- (16) (a) The Cabinet for Health and Family Services shall work with each board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons who are authorized to prescribe, administer, or dispense controlled substances for the development of a continuing education program about the purposes and uses of the electronic system for monitoring established in this section.
- (b) The cabinet shall work with the Kentucky Bar Association for the development of a continuing education program for attorneys about the purposes and uses of the electronic system for monitoring established in this section.
- (c) The cabinet shall work with the Justice and Public Safety Cabinet for the development of a continuing education program for law enforcement officers about the purposes and uses of the electronic system for monitoring established in this section.
- (17) If the cabinet becomes aware of a prescriber's or dispenser's failure to comply with this section, the cabinet shall notify the licensing board or agency responsible for licensing the prescriber or dispenser. The licensing board shall treat the notification as a complaint against the licensee.
- (18) The cabinet shall promulgate administrative regulations to implement the provisions of this section. Included in these administrative regulations shall be:
- (a) An error resolution process allowing a patient to whom a report had been disclosed under subsection (8) of this section to request the correction of inaccurate information contained in the system relating to that patient; *and*
 - (b) ***Beginning July 1, 2013, a requirement that data be reported to the system under subsection (3) of this section within one (1) day of dispensing.***

➔Section 4. KRS 218A.205 is amended to read as follows:

- (1) As used in this section:
- (a) "Reporting agency" includes:
 - 1. The Department of Kentucky State Police;
 - 2. The Office of the Attorney General;
 - 3. The Cabinet for Health and Family Services; and
 - 4. The applicable state licensing board; and
 - (b) "State licensing board" means:
 - 1. The Kentucky Board of Medical Licensure;
 - 2. The Kentucky Board of Nursing;
 - 3. The Kentucky Board of Dentistry;
 - 4. The Kentucky Board of Optometric Examiners;

5. The State Board of Podiatry; and
 6. Any other board that licenses or regulates a person who is entitled to prescribe or dispense controlled substances to humans.
- (2) (a) When a reporting agency or a law enforcement agency receives a report of improper, inappropriate, or illegal prescribing or dispensing of a controlled substance it may, to the extent otherwise allowed by law, send a copy of the report within three (3) business days to every other reporting agency.
- (b) A county attorney or Commonwealth's attorney shall notify the Office of the Attorney General and the appropriate state licensing board within three (3) business days of an indictment or a waiver of indictment becoming public in his or her jurisdiction charging a licensed person with a felony offense relating to the manufacture of, trafficking in, prescribing, dispensing, or possession of a controlled substance.
- (3) Each state licensing board shall ~~by September 1, 2012,~~ establish the following by administrative regulation for those licensees authorized to prescribe or dispense controlled substances:
- (a) Mandatory prescribing and dispensing standards related to controlled substances, *the requirements of which shall include the diagnostic, treatment, review, and other protocols and standards established for Schedule II controlled substances and Schedule III controlled substances containing hydrocodone under Section 1 of this Act and which may include the exemptions authorized by subsection (4) of Section 1 of this Act;*
 - (b) A prohibition on a practitioner dispensing greater than a forty-eight (48) hour supply of any Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone unless the dispensing is done as part of a narcotic treatment program licensed by the Cabinet for Health and Family Services;
 - (c) A procedure for temporarily suspending, limiting, or restricting a license held by a named licensee where a substantial likelihood exists to believe that the continued unrestricted practice by the named licensee would constitute a danger to the health, welfare, or safety of the licensee's patients or of the general public;
 - (d) A procedure for the expedited review of complaints filed against their licensees pertaining to the improper, inappropriate, or illegal prescribing or dispensing of controlled substances that is designed to commence an investigation within seven (7) days of a complaint being filed and produce a charging decision by the board on the complaint within one hundred twenty (120) days of the receipt of the complaint, unless an extension for a definite period of time is requested by a law enforcement agency due to an ongoing criminal investigation;
 - (e) The establishment and enforcement of licensure standards that conform to the following:
 1. A permanent ban on licensees and applicants convicted after July 20, 2012, in this state or any other state of any felony offense relating to controlled substances from prescribing or dispensing a controlled substance;
 2. Restrictions short of a permanent ban on licensees and applicants convicted in this state or any other state of any misdemeanor offense relating to prescribing or dispensing a controlled substance;
 3. Restrictions mirroring in time and scope any disciplinary limitation placed on a licensee or applicant by a licensing board of another state if the disciplinary action results from improper, inappropriate, or illegal prescribing or dispensing of controlled substances; and
 4. A requirement that licensees and applicants report to the board any conviction or disciplinary action covered by this subsection with appropriate sanctions for any failure to make this required report;
 - (f) A procedure for the continuous submission of all disciplinary and other reportable information to the National Practitioner Data Bank of the United States Department of Health and Human Services;
 - (g) If not otherwise required by other law, *a process for* ~~[-~~
 1. ~~A process for obtaining a national and state fingerprint supported criminal record check conducted by the Federal Bureau of Investigation or by the Department of Kentucky State Police on an applicant for initial licensing; and~~

~~2.~~ submitting a query on each applicant for licensure to the National Practitioner Data Bank of the United States Department of Health and Human Services to retrieve any relevant data on the applicant; and

- (h) Continuing education requirements beginning with the first full educational year occurring after July 1, 2012, that specify that at least seven and one-half percent (7.5%) of the continuing education required of the licensed practitioner relate to the use of the electronic monitoring system established in KRS 218A.202, pain management, or addiction disorders.
- (4) A state licensing board shall employ or obtain the services of a specialist in the treatment of pain and a specialist in drug addiction to evaluate information received regarding a licensee's prescribing or dispensing practices related to controlled substances if the board or its staff does not possess such expertise, to ascertain if the licensee under investigation is engaging in improper, inappropriate, or illegal practices.
- (5) Any statute to the contrary notwithstanding, no state licensing board shall require that a grievance or complaint against a licensee relating to controlled substances be sworn to or notarized, but the grievance or complaint shall identify the name and address of the grievant or complainant, unless the board by administrative regulation authorizes the filing of anonymous complaints. Any such authorizing administrative regulation shall require that an anonymous complaint or grievance be accompanied by sufficient corroborating evidence as would allow the board to believe, based upon a totality of the circumstances, that a reasonable probability exists that the complaint or grievance is meritorious.
- (6) Every state licensing board shall cooperate to the maximum extent permitted by law with all state, local, and federal law enforcement agencies, and all professional licensing boards and agencies, state and federal, in the United States or its territories in the coordination of actions to deter the improper, inappropriate, or illegal prescribing or dispensing of a controlled substance.
- (7) ***Each state licensing board shall require a fingerprint-supported criminal record check by the Department of Kentucky State Police and the Federal Bureau of Investigation of any applicant for initial licensure to practice any profession authorized to prescribe or dispense controlled substances.***

➔Section 5. KRS 315.335 is amended to read as follows:

- (1) A pharmacy located in Kentucky which has a robbery or theft of a controlled substance shall:
- ~~(a)~~ immediately following the robbery or discovery of the theft report the incident to a law enforcement agency serving the geographic area in which the pharmacy is located; ~~and~~
- ~~(b)~~ ~~Within three (3) business days report that robbery or theft to the Department of Kentucky State Police.~~
- (2) A pharmacy which has mailed or shipped a controlled substance to a location in Kentucky and learns that the mailing or shipment did not arrive shall within three (3) business days report that nonreceipt to:
- (a) The Department of Kentucky State Police; and
- (b) If applicable, the United States Postal Inspection Service.
- (3) (a) The reports required pursuant to subsections (1) and (2) of this section shall contain at a minimum, if known and applicable:
1. ~~(a)~~ The name, National Drug Code, and quantity of each controlled substance involved;
2. ~~(b)~~ A description of the circumstances of the loss;
3. ~~(c)~~ The names and contact information of any witnesses; and
4. ~~(d)~~ The name and description of any person suspected of committing the offense or causing the loss.
- (b) ***The Board of Pharmacy may by administrative regulation authorize a pharmacy to submit a completed DEA 106 form or a successor form in lieu of the data elements required by this subsection.***

➔Section 6. Whereas the epidemic of prescription drug abuse represents a clear and present danger to the lives, safety, and health of all Kentuckians and no just cause exists for delay, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 4, 2013.

CHAPTER 3

(SB 46)

AN ACT relating to biomass and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provision of law to the contrary, upon application by a regulated utility, the commission may allow recovery of costs which are not recovered in the existing rates of the utility for the purchase of electric power from a biomass energy facility that has received a certificate from the Kentucky State Board on Electric Generation and Transmission Siting pursuant to KRS 278.700 to 278.716. No recovery shall be allowed unless the full costs of the purchase power agreement over the full term of the agreement, which shall be included as part of the application, have been found by the commission to be fair, just, and reasonable. In determining whether the agreement is fair, just, and reasonable, the commission may consider the policy set forth by the General Assembly in KRS 154.27-020(2). The commission's approval of cost recovery under this section shall be valid for the entire initial term of the agreement.

➔Section 2. Whereas it is of vital importance for the Commonwealth to incent businesses to advance the goals of energy independence and creating new jobs, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor March 5, 2013.

CHAPTER 4

(SB 52)

AN ACT relating to certificates of death.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 213.076 is amended to read as follows:

- (1) (a) A certificate of death or a provisional certificate of death for each death which occurs in the Commonwealth shall be filed with the cabinet or as otherwise directed by the state registrar prior to final disposition, and it shall be registered if it has been completed and filed in accordance with this section. The funeral director, or person acting as such, who first takes custody of a dead body shall be responsible for filing the certificate of death. The funeral director, or person acting as such, shall obtain the required personal and statistical particulars from the person best qualified to supply them over the signature and address of the informant. *Effective January 1, 2015, all certificates of death shall be filed with the cabinet using the Kentucky Electronic Death Registration System in a manner directed by the state registrar.*
- (b) At the time of obtaining the required personal and statistical particulars from the informant referred to in paragraph (a) of this subsection, the funeral director, or person acting as such, shall ask the informant if the deceased ever served in the military. If the informant answers in the affirmative, then the funeral director, or person acting as such, shall provide the informant with a fact sheet stating military burial rights supplied by the Kentucky Department of Veterans' Affairs.
- (c) The funeral director, or person acting as such, shall within five (5) days of the death, present the certificate to the attending physician, if any, or to the health officer or coroner as directed by the state registrar, for the medical certificate of the cause of death and other particulars necessary to complete the record as required by this chapter.
- (d) It shall be unlawful for an institution to release a dead human body until the funeral director, or person acting as such, has completed and filed with the local registrar or person in charge of the institution, a provisional certificate of death. If death occurs outside an institution, the provisional certificate shall be filed with the local registrar by the funeral director, or person acting as such, prior to final disposition of

the dead body. A copy of the provisional certificate of death signed by the person with whom it was filed, shall constitute authority for the possession, transportation, and, except for cremation, final disposition of the body.

- (e) All persons having in their possession a completed provisional certificate of death shall file the certificate at not more than weekly intervals with the local registrar.
 - (f) If the place of death is unknown but the dead body is found in the Commonwealth, the certificate of death shall be completed and filed in accordance with this section. The place where the body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by approximation subject to amendment upon completion of any postmortem examination required to be performed.
 - (g) If death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, and the place where it is first removed shall be considered the place of death. If a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space, and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, but the certificate shall show the actual place of death insofar as can be determined.
- (2) If any certificate of death is incomplete or unsatisfactory, the state registrar shall call attention to the defects in the certificate and require the person responsible for the entry to complete or correct. The state registrar may also require additional information about the circumstances and medical conditions surrounding a death in order to properly code and classify the underlying cause. A funeral director shall not be held responsible for the failure of a physician, dentist, chiropractor, or coroner to complete or correct the entry for which he or she is responsible.
 - (3) The medical certification shall be completed, signed, and returned to the funeral director within five (5) working days after presentation to the physician, dentist, or chiropractor in charge of the patient's care for the illness or condition which resulted in death, except when inquiry is required by KRS 72.400 to 72.475. In such cases, or if the cause of death is unknown or under investigation, the cause of death shall be shown as such on the certificate. A supplemental report providing the medical information omitted from the original certificate shall be filed by the certifier with the state registrar within five (5) days after receiving results of the inquiry as required by KRS 72.400 to 72.475. The supplemental report shall be made a part of the existing death certificate. This report shall be considered an amendment, and the death certificate shall be marked "Amended." In the absence of the physician, dentist, or chiropractor, or with such person's approval, the certificate may be completed and signed by his associate physician, dentist, or chiropractor, or the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, or a physician employed by the local health department, if the individual has access to the medical history of the case and death is due to natural causes.
 - (4) If death occurs more than thirty-six (36) hours after the decedent was last treated or attended by a physician, dentist, or chiropractor, the case shall be referred to the coroner for investigation to determine and certify the cause of death. In the event that a coroner is not available to sign the certificate and there is no duly appointed deputy, the county judge/executive shall appoint a competent person to investigate the death and certify to its cause.
 - (5)
 - (a) The physician, dentist, chiropractor, or coroner who certifies to the cause of death shall return the certificate to the funeral director, or person acting as such, who, in turn, shall file the certificate directly with the Vital Statistics Branch. Any certified copies of the record requested at the time of filing shall be issued in not more than two (2) working days.
 - (b) In the case of a death in which diabetes was known to be an underlying cause or contributing condition, diabetes shall be listed in the appropriate location on the death certificate by the physician, dentist, chiropractor, or coroner who certifies to the cause of death.
 - (6) The Vital Statistics Branch shall provide self-addressed, color-coded envelopes for the funeral homes in the Commonwealth of Kentucky.
 - (7) Three (3) free verification-of-death statements shall be provided to the funeral director by the Vital Statistics Branch for every death in the Commonwealth of Kentucky.
 - (8) The body of any person whose death occurs in Kentucky shall not be interred, deposited in a vault or tomb, cremated, or otherwise disposed of, or removed from or into any registration district, until a provisional

certificate of death has been filed with the local registrar of the registration district in which the death occurs. If the death occurred from a disease declared by the Cabinet for Health and Family Services to be infectious, contagious, or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be granted by the registrar except under conditions prescribed by the Cabinet for Health and Family Services and the local health department. The Cabinet for Health and Family Services shall identify by regulation those communicable diseases which require blood and body fluid precautions. If a person who has been diagnosed as being infected with a communicable disease for which blood and body fluid precautions are required, dies within a health facility as defined in KRS 216B.015, the facility shall notify any embalmer or funeral director to whom the body will be transported of the need for such precautions. The notice shall be provided by including the statement "Blood and Body Fluid Precautions" on the provisional report-of-death form as prescribed by the Cabinet for Health and Family Services. Lack of this notice shall not relieve any embalmer or funeral director from taking universal blood and body fluid precautions as are recommended by the United States Department of Health and Human Services, Centers for Disease Control for Morticians' Services. No embalmer or funeral director shall charge more for embalming the remains of a person with a communicable disease which requires blood and body fluid precautions than the price for embalming services listed on the price list funeral providers are required to maintain and provide to consumers pursuant to 16 C.F.R. Sec. 453.2 (1988).

- (9) A burial-transit permit for the final disposition issued under the law of another state which accompanies a dead body or fetus brought into the Commonwealth shall be the authority for final disposition of the body or fetus in the Commonwealth and may be accepted in lieu of a certificate of death. There shall be noted on the face of the record made for return to the local registrar that the body was shipped to Kentucky for interment and the actual place of death.
- (10) Nothing in this section shall be construed to delay, beyond a reasonable time, the interment or other disposition of a body unless the services of the coroner or the health officer are required or the Department for Public Health deems it necessary for the protection of the public health. If compliance with this section would result in unreasonable delay in the disposition of the body the funeral director, or person acting as such, shall file with the local registrar or deputy registrar prior to interment a provisional certificate of death which shall contain the name, date, and place of death of the deceased, the name of the medical certifier, and an agreement to furnish within ten (10) days a complete and satisfactory certificate of death.
- (11) No sexton or other person in charge of any place in which interment or other disposition of dead bodies is made shall inter or allow interment or other disposition of a dead body or fetus unless it is accompanied by a copy of the provisional certificate of death. The sexton, or if there is no sexton, the funeral director, or person acting as such, shall enter on the provisional certificate over his signature, the date, place, and manner of final disposition and file the certificate within five (5) days with the local registrar.
- (12) Authorization for disinterment, transportation, and reinterment or other disposition shall be required prior to disinterment of any human remains. The authorization shall be issued by the state registrar upon proper application. The provisions of this subsection shall apply to all manners of disposition except cremation and without regard for the time and place of death. The provisions of KRS 381.765 shall not apply to remains removed for scientific study and the advancement of knowledge.
- (13) After a death certificate has been on file for five (5) years, it may not be changed in any manner except upon order of a court. Prior to that time, requests for corrections, amendments, or additions shall be accompanied by prima facie evidence which supports the requested change.

Signed by Governor March 12, 2013.

CHAPTER 5

(SB 103)

AN ACT relating to amusement rides and attractions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 247.234 is amended to read as follows:

- (1) Every owner of an amusement ride or attraction shall be required to complete an application for a business identification number on a form provided by the department.
- (2) No amusement ride or attraction shall be operated in this state without a business identification number issued by the Commissioner to the owner of the equipment. The business identification number shall be kept on site and viewable upon request.
- (3)
 - (a) The business identification number required by this section shall be valid for a period of one (1) year and shall be issued in accordance with administrative regulations promulgated by the Commissioner;
 - (b) A business identification number shall be issued to each owner to operate any amusement ride or attraction in this state. An inspection fee, which shall be determined by administrative regulations promulgated by the Commissioner, shall be levied for each amusement ride or attraction. The fee shall be based on the complexity of the ride or attraction and shall not be less than ten dollars (\$10) nor more than five hundred dollars (\$500). The cost of all inspections shall be paid by the owner of the amusement ride or attraction and may be prepaid, but shall be paid no later than the day of the inspection;
 - (c) The applicant shall furnish proof of liability insurance in effect on the operation of each amusement ride or attraction providing coverage, with an insurer authorized to issue a policy in this state, in the amount of not less than five hundred thousand dollars (\$500,000) due to all bodily injuries or deaths per occurrence, or in lieu thereof, if the applicant's amusement ride or amusement attraction is one that is permanently located or erected on a site in this state, the applicant shall be required only to provide proof of financial responsibility in the sum of five hundred thousand dollars (\$500,000). Every insurance carrier of these policies shall notify the Commissioner at least thirty (30) days prior to cancellation of a policy for mobile amusement rides or attractions and at least ten (10) days prior to cancellation of a policy for permanent amusement rides or attractions;~~;~~
 - (d) In addition to proof of adequate insurance coverage, the applicant shall furnish any other information the Commissioner may require, including but not limited to:
 1. Written notice of each intended operating site to be received by the Commissioner at least fourteen (14) days prior to operation at that site. In cases of emergency, notice of a change in future plans may be given to the Commissioner by telephone. Insurance requirements for amusement rides and attractions operated at the Kentucky State Fair may be adjusted by the Commissioner to any amount reasonably necessary to ensure adequate coverage; *and*
 2. *A written list of prior violations of KRS 247.232 to KRS 247.236 that resulted in civil penalties assessed against the applicant, any employee of the applicant, or any officer or manager if the applicant is a partnership or corporation;*
 - ~~(e)(d)~~ The Commissioner shall provide for an inspection of each amusement ride or attraction before it may be operated in this state. The Commissioner shall designate persons qualified by education or experience, who are capable of determining amusement safety in accordance with administrative regulations promulgated in accordance with KRS 247.232 to 247.236, as amusement safety inspectors; and
 - ~~(f)(e)~~ A Kentucky inspection seal shall be affixed to every individual amusement ride or attraction, or other location as determined by the Commissioner, before it may be operated in this state.
- (4)
 - (a) In addition to a mandatory initial inspection, required in subsection (3)(d) of this section, the Commissioner may inspect amusement rides and attractions without notice at any time while operating in this state. There will be no charge for additional inspections in which safety violations are not found. In regard to situations in which safety violations are found, the Commissioner may charge an inspection fee not to exceed five hundred dollars (\$500) for any future inspection necessary. The corrections of these safety violations shall comply with accepted standards of safety, and shall be accomplished prior to operating the equipment in this state;
 - (b) In regard to situations in which safety violations are found that cannot be corrected immediately, the amusement ride or attraction shall cease to operate in this state by order of the amusement safety inspector. In addition, the amusement safety inspector shall conspicuously post a public notice on or near the amusement ride or attraction. The notice shall adequately inform the public of the safety violation present. Only an amusement safety inspector employed by the department may remove the public notice;

- (c) Any owner who continues to operate an amusement ride or attraction after an order to cease operation has been issued shall have his business identification number revoked and may be subject to further penalties provided in KRS 247.233. In addition, the county attorney of each county and the Commissioner of Agriculture or the Commissioner's agents are hereby authorized to seek an injunction against the owner or operator of any amusement ride or attraction being operated in violation of KRS 247.232 to 247.236; and
 - (d) Revenue generated by this section and KRS 247.233 shall be used for the implementation and administration of KRS 247.232 to 247.236; the balance, if any, shall not lapse but shall be carried forward to the next fiscal year.
- (5) (a) An owner of an amusement ride or attraction shall:
- 1. Conduct a pre-opening inspection and test of the ride or attraction prior to admitting the public each day the ride or attraction is intended to be used; and
 - 2. Maintain for at least the previous twelve (12) months a signed record of the required pre-opening inspections and tests and any other pertinent information as required by the Commissioner.
- (b) The Commissioner may revoke the business identification number of any owner who fails to conduct the required pre-opening inspections and tests or to maintain the required reports.
- (6) *All unpaid civil penalties assessed upon a person for violations of KRS 247.232 to KRS 247.236 shall remain in effect and shall permanently remain on record with the department regardless of whether the person:*
- (a) *Operates amusement rides or attractions under his or her name, another name, an assumed name, or as a sole proprietorship;*
 - (b) *Is employed by another person operating amusement rides individually, as a sole proprietorship, or as part of a partnership or corporation; or*
 - (c) *Operates amusement rides or attractions as a member of a partnership or corporation.*

Signed by Governor March 12, 2013.

CHAPTER 6

(SB 34)

AN ACT relating to the provision of information relative to Down syndrome.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) *For the purposes of this section, "Down syndrome" means a chromosomal condition caused by cell division that results in the presence of an extra whole or partial copy of chromosome 21.*
- (2) *A health facility as defined in KRS 216B.015(13), physician, health care provider, nurse midwife, or genetic counselor who renders prenatal care, postnatal care, or genetic counseling, upon receipt of a positive test result from a test for Down syndrome, shall provide the expectant or new parent with information provided by the Cabinet for Health and Family Services under subsection (3) of this section.*
- (3) *The Cabinet for Health and Family Services shall make available to any person who renders prenatal care, postnatal care, or genetic counseling to parents who receive a prenatal or postnatal diagnosis of Down syndrome and to any person who has received a positive test result from a test for Down syndrome the following:*
 - (a) *Up-to-date, evidence-based, written information about Down syndrome that has been reviewed by medical experts and Down syndrome organizations and includes information on physical, developmental, educational, and psychosocial outcomes, life expectancy, clinical course, intellectual and functional development, and treatment options; and*

- (b) *Contact information regarding support programs and services for expectant and new parents of children with Down syndrome, including information hotlines specific to Down syndrome, resource centers or clearinghouses, national and local Down syndrome organizations such as Down Syndrome of Louisville, Down Syndrome Association of Central Kentucky, Down Syndrome Association of South Central Kentucky, Green River Area Down Syndrome Association, Down Syndrome Association of Greater Cincinnati Serving Northern Kentucky, Council on Developmental Disabilities, and other education and support programs.*

Signed by Governor March 14, 2013.

CHAPTER 7

(HB 430)

AN ACT relating to policemen's and firefighters' retirement funds of urban-county governments and declaring an emergency.

WHEREAS, the Mayor of Lexington created a Police and Fire Pension Task Force composed of police and fire representatives, business leaders, and civic leaders; and

WHEREAS, the Police and Fire Pension Task Force voted to approve proposed changes to KRS 67A.360 to 67A.690; and

WHEREAS, members of the Policemen's and Firefighter's Retirement Fund of the Lexington-Fayette Urban-County Government ratified the task force changes through a vote; and

WHEREAS, the provisions of KRS 67A.360 to 67A.690 are intended to represent the expressed will of the General Assembly to maintain state oversight and involvement of a policemen's and firefighters' retirement fund created by an urban-county government under the terms codified in this Act;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 67A.345 is amended to read as follows:

- (1) All members of the policemen's and firefighters' retirement fund of the urban-county government, operated pursuant to KRS 67A.360 to 67A.690, and all members of the urban-county government city employees pension fund who retired prior to July 1, 1999, and who did not terminate their participation in the group health insurance plan provided by the urban-county government before that date, and all members who retire on or after July 1, 1999, or who withdrew from service on a certificate prior to September 18, 2002, ***or who withdraws on a certificate as provided by subsection (3)(a) or (b) of Section 5 of this Act***, shall continue to be eligible to participate, at the member's cost, in a group health insurance plan approved by the urban-county council for such retirees.
- (2) The urban-county government shall provide, on behalf of all eligible members of the policemen's and firefighters' retirement fund and city employees pension, the following benefits:
 - (a) A sum equal to the single premium for the plan coverage selected by the retiree, but not more than one hundred percent (100%) of the urban-county government's contribution to the health insurance component of the benefit pool for current urban-county government employees; and
 - (b) Upon the death of a member of the policemen's and firefighters' retirement fund due to occupational causes, the urban-county government shall pay to the approved provider of the group health insurance plan one hundred percent (100%) of the cost of the family medical coverage for the member's surviving spouse and dependent children as long as they remain eligible for a monthly retirement allowance from the retirement fund.
- (3) No benefits shall be available under this section to retired members who were not, immediately prior to July 1, 1999, participants in the group health insurance plan coverage provided to urban-county government employees and retirees or who retire on or after July 1, 1999, and, at the time of their retirement, do not elect to participate in the group health insurance plan coverage provided pursuant to subsection (1) of this section.

- (4) Benefits shall be available under this section to members of the policemen's and firefighters' retirement fund who: ~~1~~
- (a) Prior to September 18, 2002, withdrew from service on a certificate when they attain the age of forty-six (46) years if, at the time they withdrew from service, they elected to participate in the group health insurance plan coverage provided pursuant to subsection (1) of this section upon attaining age forty-six (46);
 - (b) *Withdraw on a certificate entitling them to a pension benefit at the age of forty-one (41) as provided by subsection (3)(a) of Section 5 of this Act if, at the time they withdraw from service, they elect to participate in the group health insurance plan coverage provided pursuant to subsection (1) of this section upon attaining age forty-one (41); or*
 - (c) *Withdraw on a certificate entitling them to a pension benefit at the age of fifty (50) as provided by subsection (3)(b) of Section 5 of this Act if, at the time they withdraw from service, they elect to participate in the group health insurance plan coverage provided pursuant to subsection (1) of this section upon attaining age fifty (50).*
- (5) All payments shall be made to the approved provider of the group health insurance plan, not to the retiree, and the retiree shall not be entitled to receive any portion of the government contribution remaining after payment is made to the approved provider.
- (6) Group rates under the group health insurance plan approved by the urban-county council under subsection (1) of this section shall be made available to the spouse, dependents, and disabled children, regardless of the disabled child's age, of a qualified and participating retiree, if the premium for the spouse, dependent, or disabled child is paid by the retired member, spouse, dependent, or disabled child, by payroll deduction or similar method.

➔Section 2. KRS 67A.360 is amended to read as follows:

Words and phrases, wherever used in KRS 67A.360 to 67A.690, unless a different meaning is clearly indicated by the context, shall have the following meanings:

- (1) "Fund" shall mean the "Policemen's and Firefighter's Retirement Fund of the Urban-County Government";
- (2) "Government" shall mean the governmental unit of any urban-county government in the Commonwealth of Kentucky, including the governmental unit of any former urban-county government which changes its form of government, class or other status;
- (3) "Department" shall mean the police department or the fire department of a government;
- (4) "Board" shall mean the board of trustees provided in KRS 67A.360 to 67A.690 as the agency responsible for the direction and operation of the affairs and business of the fund. The board shall hold title to all assets of the fund;
- (5) "Member" shall mean any member of the police or fire department who is included in the membership of the fund;
- (6) "Service" shall mean actual employment in a department of a government, or a city existing within the boundaries of the government immediately prior to the establishment of an urban-county government, for salary or compensation, or service otherwise creditable as herein provided;
- (7) "Prior service" shall mean service rendered prior to the date of establishment of the fund or the fund of a city existing within the boundaries of the government immediately prior to the establishment of an urban-county government;
- (8) "Membership service" shall mean service rendered on or after the date of establishment of the fund or the fund of a city existing within the boundaries of the government immediately prior to the establishment of an urban-county government;
- (9) "Total service" shall mean prior service, membership service, and service credit purchased by a member as provided in KRS 67A.402;
- (10) "Regular interest" shall mean such rate of interest as shall be fixed by the board, provided that for the first five (5) years of operation of the fund the rate shall be not less than three percent (3%) per annum, compounded annually;

- (11) "Occupational disability" shall mean disability due to occupational causes, including but not limited to injury or disease. The presumption of contracting disease "while on active duty as a result of strain or the inhalation of noxious fumes, poisons or gases" created by KRS 79.080 shall be a presumption of "occupational disability" hereunder;
- (12) "Occupational death" shall mean death due to occupational causes, including but not limited to injury or disease;
- (13) "Average salary" shall mean the highest average annual salary of the member for any three (3) consecutive years of service within the total service of the member, including employee contributions picked up after August 1, 1982 pursuant to KRS 67A.510(2);
- (14) The masculine pronoun, wherever used, shall include the feminine pronoun; and widow shall include widower;
- (15) The fiscal year of the fund shall date from July 1 of any year to June 30 of the next year following;
- (16) "Total disability" shall mean a disability which substantially precludes a person from performing with reasonable regularity the substantial and material parts of any gainful work or occupation in the service of the department that he would be competent to perform were it not for the fact that the impairment is founded upon conditions which render it reasonably certain that it will continue indefinitely;
- (17) "Minor child" includes, as applicable, a child under the age of twenty-three (23) still engaged in full-time education;
- (18) "Mayor," "commissioner of finance," "commissioner of public safety," and "director of human resources" shall mean the persons holding the office or job most closely resembling the ordinary meaning of such terms, in the event that a government does not have an office so described;~~{and}~~
- (19) "Salary" means the member's actual base rate of pay and any other compensation that the government chooses to include. "Salary" shall include longevity pay, training incentive pay, and hazardous duty and special duty pay but shall exclude uniform and equipment allowances, uniform maintenance allowances, education incentive pay, annual payments for excess accumulated sick leave credit, compensation for overtime work, except for scheduled overtime of fire department members, and any other compensation excluded by the government;
- (20) ***"Participation date" means the date the member was hired by the government in a position eligible to participate in the fund; and***
- (21) ***"Actuarial funding level" means the actuarial value of assets divided by the actuarially accrued liability expressed as a percentage that is determined and reported by the actuary in the annual actuarial valuation of the fund.***

➔Section 3. KRS 67A.390 is amended to read as follows:

The following persons shall become members of the fund:

- (1) All active full-time members of a department in service on the day prior to the date of establishment;
- (2) All persons who become full-time members on or after the date of establishment who shall become members as a condition of employment, ***except that, effective July 1, 2013, any member who retires and receives a retirement annuity from the fund shall not be eligible to participate in the fund following retirement and earn a second retirement annuity from the fund;*** and
- (3) All members of a department who on the date of establishment are working in a civilian or appointive capacity for the government, the Commonwealth of Kentucky, or the United States of America, while on an approved leave of absence from a department.

➔Section 4. KRS 67A.402 is amended to read as follows:

- (1) (a) Except as otherwise provided in paragraph (d)~~{(b)}~~ of this subsection, any member ***whose participation date in the fund is prior to the effective date of this Act***, who has at least five (5) years of total service credit as a member of the fund may purchase service credit, that is not otherwise purchasable, for up to a maximum of four (4) years of service.
- (b) ***Except as otherwise provided in paragraph (d) of this subsection, any member whose participation date in the fund is on or after the effective date of this Act, who has at least five (5) but no more than ten (10) years of membership service may, subject to the limitations provided by this section, purchase periods of active military duty service in the Armed Forces of the United States, not to***

exceed four (4) years, that are not otherwise credited under KRS 67A.400(2)(c). The member shall provide verification of the period of active military duty as prescribed by the board.

- (c) The member shall not be entitled to purchase any service credit *under this section* for which he or she has been given credit in another defined benefit retirement fund; however, the member may purchase government service credit by transferring funds directly from another public defined benefit retirement plan if the member provides proof that he or she is not eligible for a retirement benefit from the other public defined benefit retirement fund.
- (d)~~(b)~~ Any provision of law to the contrary notwithstanding:~~;~~
1. No service credit purchase under this subsection shall be counted toward the accrual of a health or other medical insurance retirement benefit in this *fund*~~;~~~~retirement system~~
 2. *No service purchased under this section by a member whose participation date in the fund is on or after the effective date of this Act, shall be used to determine the member's eligibility to retire or to withdraw on a certificate under subsection (2) or (3)(b) of Section 5 of this Act; and*
 3. *The amount of service a member can purchase under this section shall not exceed the amounts specified by paragraphs (a) and (b) of this subsection.*
- (2) A member who purchases service credit shall file an application with the board no later than sixty (60) days prior to the anticipated service purchase payment date. The member shall pay to the fund an amount which shall be determined by actuarial method consistent with the methods prescribed for determining the purchase of prior service credit which shall be the principal.
- (3) Payment of the principal shall be made in a lump sum or payment of the principal and interest may be made by installments. Interest, at the annual rate of return on investments of the fund for the preceding year, shall be established by the commissioner of finance on or before August 31 of each year and shall be based on financial statements of the fund for the year ending June 30, except that the interest shall not be less than three percent (3%). Interest shall be added to the principal for the time period for which installments are to be made.
- (4) If payments are made by installment, the cost of purchasing the service credit shall be recalculated annually based upon the member's current salary, the interest rate established by the commissioner of finance, and other factors required by the actuarial method. The member's payments shall be adjusted annually to reflect the annual recalculation of the cost of purchasing service credit. Installment payments shall be consecutive and the total number of monthly installments shall not be less than twelve (12) or more than two hundred forty (240). The member shall pay the installments by payroll deduction.
- (5) Payments shall not be picked up by the urban-county government. No employer contribution shall be paid on the installments. The board shall determine how much of the total cost represents payment for one (1) quarter of the service to be purchased and the member shall receive service credit for one (1) quarter of the service each time this amount is paid.
- (6) If the member dies, retires, or ceases to be a member of the fund before he or she has made all installment payments for the purchase of service credit, the fund shall refund to the member, his or her qualified surviving spouse, or his or her estate, the portion of any payment that does not represent a full quarter of service.
- (7) A member *whose participation date in the fund is prior to the effective date of this Act*, who does not repay a refund of contributions, as provided in KRS 67A.500(3), shall be entitled to purchase service credit for prior membership service.
- (8) The member may cancel a purchase obligation at any time, but once canceled, a member shall have forever forfeited, waived, and relinquished the right to purchase service credit.
- ➔Section 5. KRS 67A.410 is amended to read as follows:
- (1) *For members whose participation date in the fund is prior to the effective date of this Act:*~~Beginning September 18, 2002, any~~
- (a) *The member may, at his or her option, retire on a service retirement annuity if he or she has completed at least twenty (20) years of total service, provided the member retires and begins receiving a service retirement annuity prior to July 1, 2013; or*

- (b) *The member may, at his or her option, retire on a service retirement annuity if he or she is at least forty-one (41) years of age and has completed at least twenty (20) years of total service if the member retires on or after July 1, 2013.*
- (2) *For members whose participation date in the fund is on or after the effective date of this Act, the member may, at his or her option, retire on a service retirement annuity if he or she is at least fifty (50) years of age and has at least twenty-five (25) years of membership service.*
- (3) (a) *Any member whose participation date in the fund is prior to the effective date of this Act, who does not retire by July 1, 2013, who withdraws from service prior to age forty-one (41) after having completed at least twenty (20) years of total service, and who has not accepted a refund of contributions, shall receive upon application to the fund, a certificate entitling the member to a service retirement annuity upon his or her attainment of age forty-one (41).*
- (b) *Any member whose participation date in the fund is on or after the effective date of this Act, who withdraws from service prior to age fifty (50) after having completed at least twenty-five (25) years of membership service, and who has not accepted a refund of contributions, shall receive upon application to the fund, a certificate entitling the member to a service retirement annuity upon his or her attainment of age fifty (50).*
- (c) *Upon the death of a member prior to age forty-one (41) who is holding a certificate issued by the fund pursuant to paragraph (a) of this subsection or upon the death of a member prior to age fifty (50) who is holding a certificate issued by the fund pursuant to paragraph (b) of this subsection, the surviving spouse shall receive an annuity in accordance with Section 11 of this Act based upon the survivorship payment option selected by the member.*
- (d) *The certificates provided by this subsection shall be issued by the fund and shall specify the amount of the annuity earned and accrued at the date of withdrawal from service, except that the amount of annuity earned and accrued at the date of withdrawal shall be actuarially adjusted to reflect the survivorship payment option selected by the member upon application for a certificate.*
- (4) *Provided the member has met the terms required by this section to receive a service retirement annuity*~~[Upon fulfillment of this term]~~, the board shall grant the retirement annuity upon receipt of the application of the member.

➔Section 6. KRS 67A.420 is amended to read as follows:

Each member shall be subject to compulsory retirement according to the rules of the government in which he is employed, ~~except provided, however,~~ that any member able to perform his assigned duties shall not be precluded from serving:

- (1) *At least twenty (20) years if the member's participation date in the fund is prior to the effective date of this Act; or*
- (2) *At least twenty-five (25) years if the member's participation date in the fund is on or after the effective date of this Act.*

➔Section 7. KRS 67A.430 is amended to read as follows:

- (1) (a) *For a member whose participation date in the fund is prior to the effective date of this Act, the rate of retirement annuity shall be two and one-half percent (2.5%) of average salary, as defined in KRS 67A.360(13), for each year of total service.*
- (b) *For a member whose participation date in the fund is on or after the effective date of this Act, the rate of retirement annuity shall be two and one-quarter percent (2.25%) of average salary, as defined in KRS 67A.360(13), for each year of total service.*
- (c) *Fractional periods of service shall be considered in the calculation of such annuities according to the rate provided by paragraph (a) or (b) of this subsection, based upon the participation date of the member*~~[the aforesaid rate. Provided, however, that No retiree, or his or her surviving spouse, whether the member retired before or after June 16, 1972, under this section shall receive a pension of less than \$100 a month and when Social Security benefits are increased the minimum shall be increased by a like amount, provided that the increase shall not exceed five percent (5%)].~~
- (2) Any retiree or surviving spouse who, as of July 1, 2005, was receiving a monthly annuity of less than one thousand two hundred fifty dollars (\$1,250) shall have the pension increased to one thousand two hundred fifty

dollars (\$1,250). Such increase shall be retroactive to July 1, 2005, and the retiree or surviving spouse shall receive a lump-sum payment equal to the difference between the amount of the monthly annuities received between July 1, 2005, and July 15, 2006, and the amount that would have been received had the monthly annuity been increased on July 1, 2005. The board shall increase this annuity at the same rate as annually provided by KRS 67A.690(1), and such increase shall be determined and granted annually thereafter by the board.

➔Section 8. KRS 67A.440 is amended to read as follows:

- (1) (a) Upon death of a member due to occupational causes, regardless of length of service, his surviving widow shall be entitled immediately upon cessation of salary to an annuity equal to ~~seventy-five~~~~[sixty]~~ percent (75%)~~[(60%)]~~ of the member's last rate of salary. This annuity shall be payable until she dies. In addition, if any minor children of the member, under age eighteen (18), survive the member, the widow or parent or legal guardian shall receive on account of each child, ten percent (10%) of the member's last rate of salary until each child attains age eighteen (18). In the case of a child regularly engaged in full-time educational activities, payments shall continue until age twenty-three (23), but payments shall be made directly to a child between the ages of eighteen (18) and twenty-three (23). The combined payments to a widow and minor children shall not exceed ~~one hundred~~~~[seventy-five]~~ percent (100%)~~[(75%)]~~ of his final rate of salary. When more than one (1) child survives the member, the amount payable by reason of such children shall be divided equally among them.
- (b) *Any surviving widow who is drawing a benefit pursuant to paragraph (a) of this subsection on July 1, 2013, that is less than the amount computed under paragraph (a) of this subsection, shall have her retirement annuity increased to the amount determined under paragraph (a) of this subsection.*
- (2) If the member is not survived by a widow, or, if she remarries, and there are minor children of the member, the following benefits shall be paid:
 - (a) One (1) minor child, fifty percent (50%) of the final rate of salary;
 - (b) Two (2) minor children, an additional fifteen percent (15%) of final salary;
 - (c) Three (3) or more minor children, an additional ten percent (10%) of final salary, subject to a maximum combined payment of seventy-five percent (75%) of the member's final rate of salary.

These benefits shall be divided in equal amounts for each child and paid to the parent or legal guardian of each child under eighteen (18). In the case of a child regularly engaged in full-time educational activities, payments shall continue until age twenty-three (23), but payments shall be made directly to the child between the ages of eighteen (18) and twenty-three (23). As eligibility of children expires, the total annuity payment shall be reduced by percentage amount in reverse order.

- (3) If neither a widow nor minor children eligible for benefits survive the member, each dependent parent shall be entitled to an annuity equal to twenty-five percent (25%) of the member's last rate of salary, or fifty percent (50%) to both parents.

➔Section 9. KRS 67A.460 is amended to read as follows:

- (1) If a total and permanent occupational disability occurs, the member shall receive an annuity calculated pursuant to subsection (2) of this section. This benefit shall begin at the time the member's salary ceases, and shall be paid during his or her entire lifetime. At the member's death, his or her eligible surviving spouse, if any, shall receive the benefits as provided under KRS 67A.492, and his or her minor children, if any, shall receive benefits as provided under KRS 67A.440.
- (2) The minimum annuity rate for a total and permanent occupational disability shall be:
 - (a) *Fifty percent (50%) of the member's last rate of salary if the member's rate of disability is less than twenty percent (20%) and the disablement is the direct result of documented occupational injuries for service to the department that occurred on or after July 1, 2013;*
 - (b) *Sixty percent (60%) of the member's last rate of salary if the member's rate of disability is less than twenty percent (20%) and the disablement is the direct result of documented occupational injuries for service to the department that occurred prior to July 1, 2013; or*
 - (c) Sixty percent (60%) of the member's last rate of salary *if the member's rate of disability is equal to twenty percent (20%) or more.* The minimum *annuity rate provided by this paragraph* shall be increased by one half (1/2) of the amount by which the member's percentage of disability exceeds

twenty percent (20%), but this increase shall be not more than fifteen percent (15%) of the member's last rate of salary and the member's total annuity shall not be greater than seventy-five percent (75%) of his or her last rate of salary.

- (3) The member's percentage of disability shall be the average of the impairment rating determined by two (2) physicians selected by the board under KRS 67A.480, using the "Guides to the Evaluation of Permanent Impairment".
- (4) If a member is eligible for a service retirement annuity under KRS 67A.410 and the amount of the member's service retirement annuity would exceed the amount of his or her total and permanent occupational disability annuity, as determined by the board under this section, then the member may elect to receive an additional service retirement annuity payment equal to the amount by which the member's service retirement annuity would have exceeded the amount of his or her total and permanent occupational disability annuity, in addition to the member's disability annuity, by filing with the board the application required by KRS 67A.410.

➔Section 10. KRS 67A.470 is amended to read as follows:

- (1)
 - (a) Upon total and permanent disability of a member as the result of any cause other than occupational disability, if a member shall have rendered at least five (5) years of total service, he shall be entitled to a disability retirement annuity *determined under this section*.
 - (b) *For a member whose participation date in the fund is prior to the effective date of this Act*, the amount of *the disability retirement* ~~such~~ annuity shall be equal to two and one-half percent (2.5%) of the average salary, as defined in KRS 67A.360(13), for each full year of total service, subject to a minimum payment of twenty-five percent (25%) of such average salary and a maximum payment of seventy-five percent (75%) of average salary.
 - (c) *For a member whose participation date in the fund is on or after the effective date of this Act, the amount of the disability retirement annuity shall be equal to two and one-quarter percent (2.25%) of the average salary, as defined in KRS 67A.360(13), for each full year of total service, subject to a minimum payment of twenty-two and one-half percent (22.5%) of such average salary and a maximum payment of sixty-seven and one-half percent (67.5%) of average salary.*
 - (d) Payment of *the disability* ~~this~~ annuity *as provided by this section* shall be made during disability of the member. After the member's death, his eligible widow, if any, shall receive the benefits as provided in KRS 67A.492, and his minor children, if any, shall receive benefits as provided under KRS 67A.450.
- (2) Any annuity for nonoccupational disability shall begin to accrue upon the expiration of ninety (90) days following the commencement of disability provided that if the member is receiving salary for sick leave for a period of more than ninety (90) days, payment shall accrue from the date such salary ceases. If written application for such annuity shall not have been filed with the board prior to the expiration of ninety (90) days from date of disability, the annuity shall begin to accrue from the date the application shall be filed but not prior to the expiration of ninety (90) days from the date of disability, nor in any event prior to the time when salary payments to the employee shall have ceased.

➔Section 11. KRS 67A.492 is amended to read as follows:

- (1)
 - (a) Upon the death of a retired member, his or her surviving spouse shall receive an annuity equal to sixty percent (60%) of the member's final annuity, or of the member's final rate of pay, whichever is greater.
 - (b) *Upon the death of a member who withdraws on a certificate as provided by subsection (3)(a) or (b) of Section 5 of this Act, his or her surviving spouse shall receive an annuity equal to sixty percent (60%) of the member's service retirement annuity.*
 - (c) The surviving spouse must have been married to the member for at least three (3) years prior to the member's death or six (6) months prior to the member's retirement *or withdrawal on a certificate as provided by subsection (3)(a) or (b) of Section 5 of this Act*, in order to be eligible for the benefits provided in this section. Effective April 4, 2006, the benefits provided by this section shall be made eligible to surviving spouses of any retired member who died on July 14, 2000, or thereafter.
- (2) Any member who retires on July 15, 1990, or thereafter, *and any member who withdraws on a certificate as provided by subsection (3)(a) or (b) of Section 5 of this Act*, shall have the option at retirement *or upon application for a certificate* to purchase an increased annuity allowance for his or her surviving spouse. The amount of any such optional survivorship allowance shall be actuarially equivalent to the amount of retirement allowance otherwise payable to the member. The member may elect either of two (2) options:

- (a) Survivorship seventy-five percent (75%). The member may elect to receive a decreased retirement allowance during his or her lifetime and have seventy-five percent (75%) of such retirement allowance continue after the member's death to his or her eligible surviving spouse until the surviving spouse's death.
- (b) Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during his or her lifetime and have such retirement allowance continued at the same rate after the member's death to his or her eligible surviving spouse until the surviving spouse's death.

➔Section 12. KRS 67A.500 is amended to read as follows:

- (1) Upon withdrawal from service prior to retirement, a member shall be entitled to receive a refund of the amount of contributions made by the member or picked up by the urban-county government pursuant to KRS 67A.510(2) after the date of establishment, without interest. Payments of picked up employee contributions shall be subject to state and federal tax as appropriate.
- (2) Any member receiving a refund of contributions shall thereby ipso facto forfeit, waive, and relinquish all accrued rights and benefits in the system, including all credited and creditable service. The board may, in its discretion, regardless of cause, withhold payment of a refund for a period not to exceed six (6) months after receipt of an application from a member.
- (3) Any member who has received a refund shall be considered a new member upon subsequent reemployment if such person qualifies for membership under KRS 67A.360 to 67A.690. Any member who is reemployed after withdrawing from service and who received a refund of contributions shall, within ninety (90) days of his reemployment or prior to retirement, whichever occurs first, make a repayment to the system of the amount or amounts previously received as a refund, including interest at the rate determined by the board to be the actual rate of return on investments made by the board, but not less than three percent (3%) per annum, from the dates of the refund to the date of repayment, compounded annually. Upon the restoration of such refunds, such member shall have reinstated to his account all credited service represented by the refunds of which repayment has been made. Repayment of refunds by any member shall include all refunds received by a member prior to the date of his last withdrawal from service, with interest, and shall be made in a single lump sum payment. Repayments shall not be picked up by the urban-county government. If repayment is not made within the specified time period, the member shall have forever forfeited, waived, and relinquished the right to have reinstated to his account the credited service represented by the refunds for which repayment was not made, but shall not be precluded from purchasing service credit as provided in KRS 67A.402 *if the member began participating in the fund prior to the effective date of this Act.*
- (4) Any member who has received, or who is entitled to receive, a refund, but who within six (6) months of becoming entitled to receive such refund, qualifies for membership under the provisions of a fund in effect in another government, or city of the second class, adopted pursuant to law, shall have the option of paying his refund into such other fund, in which event he shall be deemed a member of such other fund and his account therein shall be credited with all contributions, including those picked up pursuant to KRS 67A.510(2), and service under his original fund.

➔Section 13. KRS 67A.510 is amended to read as follows:

- (1) (a) Each active member shall contribute a sum equal to not less than ten and one-half percent (10.5%) nor more than eleven percent (11%) of current salary, to be determined by the legislative body of the urban-county government, *except that:*
 - 1. *For members whose participation date in the fund is prior to the effective date of this Act, the members shall, effective July 1, 2013, contribute a sum equal to twelve percent (12%) of current salary to the fund; and*
 - 2. *For members whose participation date in the fund is on or after the effective date of this Act, the member shall contribute a sum equal to twelve percent (12%) of current salary to the fund.*
- (b) The commissioner of finance of the government is hereby authorized to deduct such amount *provided by this subsection* from the salary *paid to* ~~of~~ each active member *during any pay period* ~~in~~ ~~semi-monthly installments~~. This contribution shall be made as a deduction from salary, notwithstanding that the salary paid in cash to such member may be reduced thereby below the established statutory rate. Every member of the fund shall be deemed to consent and agree to the deduction from salary as herein provided, and shall receipt for his full salary, and payment to such member of salary less such deduction shall constitute a full and complete discharge and acquittance of all claims and demand whatsoever for

the services rendered by such member during the period covered by such payment, except as to the benefits herein provided. After August 1, 1982, employee contributions shall be picked up by the urban-county government pursuant to subsection (2) of this section.

- (2) The urban-county government shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). However, the urban-county government shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement fund satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The urban-county government shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the urban-county government to the fund. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 67A.360 to 67A.690 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

➔Section 14. KRS 67A.520 is amended to read as follows:

The government shall make *annual*~~current~~ contributions to the fund ~~for an actuarially funded basis,~~ toward the annuities and benefits ~~herein~~ provided by *KRS 67A.360 to 67A.690 based upon the results of the annual actuarial valuation of the fund required by subsection (6)(c) of Section 15 of this Act.* These contributions by the government shall be equal to the sum of the *normal contribution amount and an additional amount to be known as the actuarially accrued liability contribution amount.*~~following:~~

- (1) *For purposes of this section, the normal contribution amount shall be an annual amount that, when combined with all active member contributions to the fund, is sufficient to fund the benefits earned during the year*~~resulting from the application of a rate percent of salaries of active members determined by the entry age normal cost funding method. Such rate percent shall be fixed by the board every two (2) years, within six (6) months after the actuarial study required by subsection (6) of KRS 67A.560 (actuarial survey of the fund), and shall be in effect for a period of at least two (2) years}.~~
- (2) *For purposes of this section, the actuarially accrued liability contribution amount shall be an annual amount that is sufficient to amortize the total unfunded actuarially accrued liability of the fund over a period of thirty (30) years, using the level-dollar amortization method, for a period beginning July 1, 2013, and ending June 30, 2043. The level-dollar amortization method shall be used to determine the government's contribution payable on or after July 1, 2013.*~~[An amount resulting from the application of a rate percent of the salaries of active members which will provide each year regular interest on the remaining liability for prior service.]~~
- (3) *The government contribution to the fund computed under this section shall:*
- (a) *Be determined using the entry age normal cost method;*
- (b) *Effective July 1, 2013, and for each fiscal year thereafter, not*~~[In any event, the total contribution of the government shall]~~ *be less than twenty million dollars (\$20,000,000) annually for the thirty (30) year period occurring on or after July 1, 2013, unless the pension fund has a actuarial funding level equal to or greater than one hundred percent (100%) as determined by the actuarial valuation of the fund, in which case, the contribution payable by the government shall be equal to the normal contribution amount specified by this section; and*~~[at least seventeen percent (17%) of the salaries of the active members participating in the fund]~~
- (c) *Be fixed by the board annually, in accordance with this section and based upon the results of the annual actuarial valuation required by subsection (6)(c) of Section 15 of this Act, and shall be in effect for a period of one (1) fiscal year. The board shall notify the government of the rates payable under this section following the board's acceptance of the actuarial valuation.*
- (4) In addition to other remedies provided by law, any member of the fund or any annuitant may obtain in the Circuit Court of any county in which the government is located an injunction or mandamus requiring the government to comply *with this section*~~herewith~~.

➔Section 15. KRS 67A.560 is amended to read as follows:

- (1) The officers of the board shall consist of a president, vice president, and a secretary. The president shall be the chief executive officer of the board, shall preside at all meetings and shall appoint all necessary committees. The vice president shall serve as president in the absence of the president.
- (2) The board shall designate a secretary who may be a member of the board and shall fix the secretary's compensation. The secretary shall keep a full account of all proceedings of the board and shall give notice of all meetings and give effect to all resolutions, orders, and directives of the board. The secretary shall be in charge of the detailed affairs of administration of the fund; shall keep the record of proceedings of all meetings; shall keep all books, files, records, and accounts of the fund; shall receive all applications for annuities, benefits, and refunds; shall prepare periodic reports relative to the financial operations of the fund for the information of the board and its membership; shall compile all statistics pertinent to the operations of the fund; and shall answer all correspondence received by the board.
- (3) The commissioner of finance shall be ex officio treasurer of the board and custodian of the fund. The commissioner shall have custody of all cash and securities of the fund, subject to the authority and directives of the board, and shall keep such accounts and records as may be prescribed by the board. These accounts and records shall be subject to inspection of the board or any member thereof.
- (4) The commissioner of finance shall, within ten (10) days after his or her selection, execute a bond to the board, with good surety, in such penal sum as the board directs, to be approved by the board, conditioned upon the faithful performance of the duties of the office, and that the commissioner shall safely keep and shall truthfully account for all money and properties that come into his or her hands as treasurer of the fund, and that upon the expiration of his or her term of office, he or she shall deliver to his or her successor all securities, unexpended moneys, and other properties that come into his or her hands as treasurer of the fund. The bond shall be filed with the secretary of the board, and suit thereon may be filed in the name of the board for use of the board or any person injured by its breach. The premium on said bond may be paid out of the fund.
- (5) The commissioner of law of the government shall serve as legal adviser to the board, except that the board shall have the power to hire independent counsel, the cost of such independent counsel to be borne by the pension fund.
- (6)
 - (a) The board ~~shall~~~~may~~ employ actuarial assistance from time to time to advise it in matters relating to the technical aspects of operations of the fund, to assist in the preparation of the periodic financial reports, **to conduct the annual actuarial valuation of the fund**, to determine ~~the government's rates of urban-county~~ contribution **as provided by Section 14 of this Act**, and to make periodic analyses of the operation of the fund.
 - (b) Within six (6) months after the establishment of an urban-county form of government, an actuarial study shall be made for the purpose of recommending rates, mortality, disability, retirement, separations from service, and other essential factors.
 - (c) ***Beginning with the fiscal year ending June 30, 2013, and each fiscal year thereafter, an actuarial valuation of the fund shall be completed by the actuary employed by the fund. The valuation shall include a description of the actuarial assumptions used and descriptive statistics on the actuarial health of the fund, and shall determine the government's contribution in accordance with Section 14 of this Act. Actuarial assumptions used in the fund's valuation shall be reasonably related to the experience of the fund and represent the actuary's best estimate of anticipated experience.***
 - (d) ***At least once every five (5) years, the board shall cause***~~Beginning July 1, 2000, and at least once every two (2) years thereafter~~ ***an actuarial experience study of the fund to be completed by the actuary employed by the board. The actuarial experience study shall include a review of actuarial assumptions, actuarial tables, and actuarial funding methods used in the actuarial valuation***~~survey and investigation shall be made of the operating experience of the fund, including a study of the rates, mortality, disability, retirement, separations from service, and other essential factors~~. ***Based upon the results of the experience study, the actuary employed by the fund shall recommend the actuarial assumptions, actuarial***~~all mortality and interest~~ ***tables, and actuarial funding methods to be adopted by the board,*** ~~and shall recommend, if appropriate, cost of living increases as provided in KRS 67A.430~~.
 - (e) In the event ***the actuarial valuation or actuarial experience study***~~such survey~~ is not undertaken as provided ***by this subsection***~~herein~~, any member of the fund or any annuitant may obtain an injunction or mandamus requiring ***the actuarial valuation or actuarial experience study be completed***~~such~~.

~~survey and investigation~~, or may obtain the appointment of a person or persons to **complete the actuarial valuation or actuarial experience study** ~~[make such study and investigation]~~, from the Circuit Court of any county in which the government is located.

- (7) The board shall establish rules and regulations to implement the provisions of KRS 67A.360 to 67A.690 which shall not be inconsistent therewith.

➔Section 16. KRS 67A.580 is amended to read as follows:

- (1) An adequate system of accounts and records shall be established and maintained for the fund that will reflect fully the requirements of the provisions of KRS 67A.360 to 67A.690. This system shall be integrated, to the extent possible with the accounts, records, and procedures of the government to the end that the same shall operate most effectively and at minimum expense, and that duplication of records and accounts may be avoided.
- (2) All assets of the fund shall be credited according to the purposes for which they are held in the following designated reserve accounts:
- (a) **Members' Contribution Reserve.** The amounts contributed by the members, including those picked up pursuant to KRS 67A.510(2), shall be credited to this reserve, together with regular interest thereon as herein provided. An individual account shall be maintained for each member, to which shall be credited the amounts of his contributions or amounts picked up by the urban-county government. Upon the granting of a service retirement annuity, disability annuity, or survivor's annuity or benefit, the accumulated contributions to the credit of the member concerned shall be transferred from this reserve to the retirement reserve. Refunds and death payments representing member's contributions shall be charged to this reserve.
- (b) **Employer's Contribution Reserve.** The amounts contributed by the government under the provisions hereof, for service retirement annuity, disability retirement annuity, and benefits to survivors covering membership service and prior service, shall be credited to this reserve. Upon the granting of a service retirement annuity, disability retirement annuity, or survivor's benefit, an amount representing the excess of the actuarial value of the annuity, or benefit over the accumulated contributions of the member, shall be transferred from this reserve to the retirement reserve.
- (c) **Retirement Reserve.** Upon the granting of a service retirement annuity, disability retirement annuity, or survivor's benefit, the accumulated contributions of the member, including those picked up pursuant to KRS 67A.510(2), and an amount representing the excess of the actuarial value of the annuity or benefit over such accumulated contributions, shall be transferred to this reserve from the member's contribution reserve and employer's contribution reserve, respectively. All income from investments, including gains on investment transactions, shall be credited to this reserve. All losses on investments shall be charged to this reserve. All payments on account of any annuity made by the fund shall be charged to this reserve. ~~[Any excess balance in this reserve, as determined by actuarial valuation as of the close of any fiscal year, shall be applied to reduce the employee's contributions for membership service for the fiscal years next following the date of such valuation.]~~ Any deficiency in this reserve shall be removed by an increase in the amount of government's contributions for future membership service.

➔Section 17. KRS 67A.690 is amended to read as follows:

- (1) (a) ***The increase in retirement annuities provided and authorized by paragraphs (b) and (c) of this subsection shall be provided when:***
1. ***A member who retired prior to July 1, 2013,*** ~~[when a member]~~ has been retired for one (1) year or attained forty-seven (47) years of age, whichever is later;
 2. ***The member*** ~~[, or when he]~~ would have been retired for one (1) year or attained forty-seven (47) years of age, ***whichever is later,*** in the event the member ~~[is deceased,]~~ ***died prior to July 1, 2013;***
 3. ***A member who retires on or after July 1, 2013, has been retired five (5) years or attained fifty (50) years of age, whichever is sooner; or***
 4. ***The member would have been retired for five (5) years or attained fifty (50) years of age, whichever is sooner, in the event the member dies on or after July 1, 2013.***
- (b) ***Except as provided by paragraph (c) of this subsection, for each member, widow, or dependent child who is eligible for an increase in retirement annuities as provided by paragraph (a) of this***

subsection, the board shall increase his *or her* retirement annuity by: ~~or the annuity paid to his widow or dependent children by not less than~~

1. *Two percent (2%) per year, compounded annually, if the member, widow, or dependent child is receiving an annualized retirement annuity of less than forty thousand dollars (\$40,000);*
2. *One and one-half percent (1.5%) per year, compounded annually, if the member, widow, or dependent child is receiving an annualized retirement annuity of at least forty thousand dollars (\$40,000) but less than seventy-five thousand dollars (\$75,000); or*
3. *One percent (1%) per year, compounded annually, if the member, widow, or dependent child is receiving an annualized retirement annuity equal to or greater than seventy-five thousand dollars (\$75,000), except that no member, widow, or dependent child receiving an annualized retirement annuity equal to or greater than one hundred thousand dollars (\$100,000) shall receive an increase in his or her retirement annuity until January 1, 2016.*

(c) *If the fund has an actuarial funding level greater than eighty-five percent (85%), as determined by the most recently completed actuarial valuation of the fund, the board shall, in lieu of the increase provided by paragraph (b) of this subsection, increase retirement annuities for members, widows, and dependent children as follows, provided the increase meets the requirements of paragraph (d) of this subsection:*

1. *For members whose participation date in the fund is prior to the effective date of this Act, who are eligible for an increase in retirement annuities as provided by paragraph (a) of this subsection, the board may increase retirement annuities by an amount not less than two percent (2%) nor more than five percent (5%) per year, compounded annually;*
2. *For members whose participation date in the fund is on or after the effective date of this Act, who are eligible for an increase in retirement annuities as provided by paragraph (a) of this subsection, the board may increase retirement annuities by an amount not more than three percent (3%) per year, compounded annually; and*
3. *Increases provided under this paragraph shall be in lieu of the increases provided under paragraph (b) of this subsection.*

(d) *The board shall determine annually whether an increase in retirement annuities can be provided under paragraph (c) of this subsection. No increase in retirement annuities shall be provided under paragraph (c) of this subsection, if the increase in retirement annuities will reduce the actuarial funding level of the fund below eighty-five percent (85%) ~~and such increase shall be determined and granted annually thereafter by the board.~~*

- (2) Beginning July 1, 2001, notwithstanding any other provision to the contrary, any member, retired *prior to July 1, 2013*, under occupational disability, as provided in KRS 67A.460, or nonoccupational disability shall be entitled to an increase in his or her annuity, or in the event of death the annuity paid to his or her spouse or dependent, after he or she has been retired one (1) year regardless of age or date of retirement. *Members retiring under occupational disability, as provided in KRS 67A.460, or nonoccupational disability, on or after July 1, 2013, shall be entitled to an increase in his or her annuity as provided by subsection (1) of this section.* The amount of the annual increase shall be the same as described in subsection (1) of this section, compounded annually, and the increase shall be determined and granted annually thereafter by the board. For a member retired on occupational disability for a length of time in excess of one (1) year prior to June 21, 2001, the board shall increase the member's annuity as described in this paragraph, on July 1, 2001, and each July 1 thereafter.
- (3) (a) A member who retired pursuant to the provisions of KRS 67A.360 to 67A.690 prior to July 15, 1980, or pursuant to KRS 67A.690(2) after July 15, 1980, or his surviving spouse or eligible surviving children, shall receive an upward adjustment in their retirement or survivor's annuity by calculation of a two percent (2%) annual increase compounded from July 1, 1974, until July 15, 1980, and annual increases compounded, from July 15, 1980, until July 15, 1990, in the same percentage amount by which the pension board increased other pensions pursuant to subsection (1) of this section for those same years. For purposes of calculation, unless the member retired under disability, the member's or survivor's first increase shall occur after the member was retired for one (1) year or attained the age of forty-seven (47), whichever was later, or would have been retired one (1) year or reached the age of forty-seven (47), whichever was later, in the event the member died before being retired one (1) year or reaching the

age of forty-seven (47). In the case of retirement under disability, no age or length of retirement criteria shall apply.

- (b) After calculation of the new annuity level, members of age forty-seven (47) or more affected by this subsection, or survivors of a member who would have been forty-seven (47) or more in the event the member is deceased, shall be granted the same annual increase granted to retirees who retired July 15, 1980, or thereafter, pursuant to subsection (1) of this section, and the annuity on which this cost-of-living increment is based shall be the annuity level reached through the addition of annual compounded increases calculated pursuant to paragraph (a) of this subsection, but not less than the annuity level in effect prior to July 15, 1990. If the member has not attained the age of forty-seven (47) or would not have attained the age of forty-seven (47) in the event the member is deceased, then the member or survivor shall receive increases of two percent (2%) compounded annually until the member attains or would have attained age forty-seven (47), at which time the same annual increase granted to retirees who retired July 15, 1980, or thereafter shall apply.
- (4) The provisions of subsection (3) of this section shall not apply to any retiree or surviving spouse who receives a minimum retirement annuity, annually adjusted, pursuant to KRS 67A.430. If, in the future, any retiree or spouse annuity granted pursuant to this section falls below the adjusted minimum annuity, the affected retiree or spouse shall be granted, from that time forward, the adjusted minimum annuity calculated pursuant to KRS 67A.430.

→Section 18. Notwithstanding any other provision of this Act to the contrary, any person employed by the Lexington-Fayette Urban County Government who, on the effective date of this Act, is in training for a position that qualifies for participation in the fund described by KRS 67A.360 to 67A.690, shall be considered to have a participation date in the fund prior to the effective date of this Act for purposes of determining benefits under KRS 67A.360 to 67A.690.

→Section 19. Whereas the financial integrity of the pension funds administered by urban-county governments are imperative to the public employees, retirees, and taxpayers of urban-county governments, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor March 14, 2013.

CHAPTER 8

(HB 221)

AN ACT relating to local option elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

→SECTION 1. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding KRS 242.125, when the voters of any precinct located either partially or entirely within a qualifying city make KRS 242.220 to 242.430 apply to the precinct, the provisions of KRS 242.220 to 242.430 shall apply throughout the entire territory of the precinct, except in any area exempted under subsection (2) of this section. For purposes of this section, a "qualifying city" means a city that contains a total population of twelve thousand (12,000) or greater within its municipal boundaries, based on the most recent decennial census.*
- (2) *The provisions of KRS 242.220 to 242.430 shall not apply to any of the following that existed in a precinct prior to the submission of a petition under KRS 242.020 for that precinct:*
- (a) *An entertainment destination center project meeting the qualifications of KRS 148.853(2)(b);*
- (b) *A theme restaurant destination attraction project meeting the qualifications of KRS 148.853(2)(c); or*
- (c) *Within the established boundaries of a district of special interest created by the city pursuant to the provisions of KRS 100.203(1)(e) that:*
1. *Is designated as an entertainment district; and*

2. *Has a minimum direct investment by the city government in infrastructure or other public space of at least five million dollars (\$5,000,000).*
- (3) *The boundaries of a district of special interest meeting the qualifications of subsection (2)(c) of this section shall not be enlarged or modified to include any additional territory at any time after the submission of a petition under KRS 242.020 unless the voters of the precinct do not make KRS 242.220 to 242.430 apply to the precinct.*

Signed by Governor March 14, 2013.

CHAPTER 9

(SCR 35)

A CONCURRENT RESOLUTION relating to the study of the Unified Juvenile Code and related statutes.

WHEREAS, the Unified Juvenile Code was enacted in 1986 after a thorough review of its predecessor statutes enacted in 1948 and upon review of statutes dating back to 1896; and

WHEREAS, significant amendments to the Unified Juvenile Code were enacted by the General Assembly in 1994 and nearly every session thereafter; and

WHEREAS, practitioners and participants in the juvenile justice system realize that the current Unified Juvenile Code, along with other statutes impacting the juvenile justice system, have been extensively added to and modified, resulting in ambiguity and inconsistency; and

WHEREAS, the General Assembly believes that the Unified Juvenile Code is in urgent need of review to remove these ambiguities and inconsistencies in order to provide the Commonwealth's children with the care and treatment needed;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

➔Section 1. The Unified Juvenile Code Task Force is hereby created.

➔Section 2. The Unified Juvenile Code Task Force shall consist of:

(1) The chair of the Senate Judiciary Committee, who shall be co-chair of the task force; however, if he or she declines to serve, the President of the Senate shall designate a member of the Senate to serve as co-chair of the task force;

(2) The chair of the House of Representatives Judiciary Committee, who shall be co-chair of the task force; however, if he or she declines to serve, the Speaker of the House of Representatives shall designate a member of the House of Representatives to serve as co-chair of the task force;

(3) A District Court or Family Court Judge recommended by the Chief Justice;

(4) The director of the Administrative Office of the Courts or his or her designee;

(5) A current or former county attorney or assistant county attorney with juvenile court experience recommended by the co-chairs;

(6) A current or former attorney from the Department of Public Advocacy with juvenile practice experience recommended by the public advocate;

(7) The commissioner of the Department of Juvenile Justice;

(8) The commissioner of the Department for Community Based Services;

(9) A superintendent from a local board of education recommended by the co-chairs;

(10) A current county judge/executive recommended by the co-chairs; and

(11) A provider of community based treatment services for children recommended by the co-chairs; and

(12) A provider of mental health services to children recommended by the co-chairs.

➔Section 3. (1) The Unified Juvenile Code Task Force may, based on prior research and recommendations and its own new research and recommendations, provide to the Interim Joint Committee on Judiciary and the Legislative Research Commission draft changes to the Unified Juvenile Code and other necessary statutes.

(2) The draft may, insofar as possible, provide for:

(a) The use of validated risk and needs assessments;

(b) Alternatives to incarceration;

(c) The use of community resources, education, and rehabilitation programs for both victims and defendants;

(d) Reinvestment of savings from reduction of the use of facilities for the detention and out-of-home placement of public offenders and status offenders into community-based treatment programs for public offenders and status offenders;

(e) Establishing means of protection and treatment for special needs children;

(f) The feasibility of establishing an age of criminal responsibility;

(g) Whether or not to eliminate status offenses or modify how status offenses are handled and status offenders are treated;

(h) An understanding of the issue and an improved system of identification of children exposed to domestic violence;

(i) A plan for an improved system of information sharing, coordination and provision of services, and response to children exposed to and affected by domestic violence and the impact of domestic violence on a child's behavior; and

(j) Such other recommendations for the modernization and improvement of the Unified Juvenile Code as may be needed and desirable.

➔Section 4. The Unified Juvenile Code Task Force may produce a draft of proposed changes to the Unified Juvenile Code and other necessary statutes for submission to the Interim Joint Committee on Judiciary and to the Legislative Research Commission no later than January 6, 2014.

➔Section 5. Final membership of the Unified Juvenile Code Task Force shall be subject to the consideration and approval of the Legislative Research Commission.

➔Section 6. Provisions of Sections 1 to 5 of this Act to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

Signed by Governor March 14, 2013.

CHAPTER 10

(SB 93)

AN ACT relating to the Uniform Commercial Code and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 355.4A-108 is amended to read as follows:

(1) ***Except as provided in subsection (2) of this section,*** this article does not apply to a funds transfer any part of which is governed by the Electronic Fund Transfer Act of 1978 (Title XX, P.L. 95-630, 92 Stat. 3728, 15 U.S.C. secs. 1693 et seq.) as amended from time to time.

(2) ***This article applies to a funds transfer that is a remittance transfer as defined in the Electronic Fund Transfer Act, 15 U.S.C. sec. 16930-1, as amended from time to time, unless the remittance transfer is an***

electronic fund transfer as defined in the Electronic Fund Transfer Act, 15 U.S.C. sec. 1693a, as amended from time to time.

- (3) *In a funds transfer to which this article applies, in the event of an inconsistency between an applicable provision of this article and an applicable provision of the Electronic Fund Transfer Act, the provision of the Electronic Fund Transfer Act governs to the extent of the inconsistency.*

➔Section 2. 2012 Ky. Acts ch. 132, sec. 102 is repealed, reenacted, and amended to read as follows:

Sections 60 to 99 of this Act take effect July 1, 2013.

➔Section 3. KRS 355.9-801 (Effective July 1, 2013) is repealed, reenacted, and amended to read as follows:

Amendments to existing statutes and the creation of new statutes in this article contained in 2012 Ky. Acts ch. 132, secs. 60 to 99~~[KRS 355.9-801 to 355.9-809]~~ shall take effect on July 1, 2013.

➔Section 4. KRS 355.9-809 (Effective July 1, 2013) is repealed, reenacted, and amended to read as follows:

Amendments to existing statutes and the creation of new statutes in this article contained in 2012 Ky. Acts ch. 132, secs. 60 to 99 determine~~[KRS 355.9-801 to 355.9-809 determines]~~ the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before July 1, 2013, this article as it existed before amendment determines priority.

➔Section 5. Whereas it is in the interest of the public welfare, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor March 14, 2013.

CHAPTER 11

(SB 97)

AN ACT relating to compulsory attendance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 159.010 is amended to read as follows:

- (1) (a) Except as provided in KRS 159.030 *and paragraph (b) and (c) of this subsection*, each parent, guardian, or other person residing in the state and having in custody or charge any child who has entered the primary school program or any child between the ages of six (6) and sixteen (16) shall send the child to a regular public day school for the full term that the public school of the district in which the child resides is in session or to the public school that the board of education of the district makes provision for the child to attend. A child's age is between six (6) and sixteen (16) when the child has reached his *or her* sixth birthday and has not passed his *or her* sixteenth birthday.
- (b) 1. *Effective with the 2015-2016 school year, a local board of education may, upon the recommendation of the superintendent, adopt a district-wide policy to require, except as provided in KRS 159.030, each parent, guardian, or other person residing in the district and having in custody or charge any child who has entered the primary school program or any child between the ages six (6) and eighteen (18) to send the child to a regular public school for the full term of the district in which the child resides or to the public school that the district makes provisions for the child to attend.*
2. *All children residing in the district, except as provided in KRS 159.030, shall be subject to the local board's compulsory age policy.*
3. *A district shall impose the same compulsory age requirement for all students residing in the district, even if the district has entered a contract to permit some students to attend school in another public school district that has not adopted a policy under this paragraph.*
4. *A local board of education adopting a policy under this paragraph shall certify to the Kentucky Department of Education that the district has, or will have, programs in place to*

meet the needs of potential dropouts. Implementation of the policy shall be contingent on notice of approval by the department.

- (c) ***When fifty-five percent (55%) of all local school districts have adopted a policy in accordance with paragraph (b) of this subsection, all local school districts shall be required to adopt the compulsory attendance requirements under paragraph (b) of this subsection. This requirement shall be effective with the school year that occurs four (4) years after the fifty-five percent (55%) threshold is met.***
- (2) An unmarried child between the ages of sixteen (16) and eighteen (18) ***who resides in a district that has not adopted a policy under subsection (1)(b) of this section*** who wishes to terminate his ***or her*** public or nonpublic education prior to graduating from high school shall do so only after a conference with the principal or his ***or her*** designee, and the principal shall request a conference with the parent, guardian, or other custodian. Written notification of withdrawal must be received from his parent, guardian, or other person residing in the state and having custody or charge of him. The ~~parent(s) and~~ child ***and the parent, guardian, or other custodian*** shall be required to attend a one (1) hour counseling session with a school counselor on potential problems of nongraduates.
- (3) A child's age is between sixteen (16) and eighteen (18) when the child has reached his sixteenth birthday and has not passed his eighteenth birthday. Written permission for withdrawal shall not be required after the child's eighteenth birthday. Every child ***who is a*** ~~actually~~ resident in this state is subject to the laws relating to compulsory attendance, ***including the compulsory attendance requirements of a school district under subsection (1)(b) of this section.*** ~~and~~ Neither ***the child*** ~~he~~ nor the person in charge of ***the child*** ~~him~~ shall be excused from the operation of those laws or the penalties under them on the ground that the child's residence is seasonable or that his ***or her*** parent is a resident of another state.
- (4) Each school district shall contact each student between the ages of sixteen (16) and eighteen (18) who has voluntarily withdrawn from school ***under subsection (2) of this section*** within three (3) months of the date of withdrawal to encourage the student to reenroll in a regular program, alternative program, or GED preparation program. In the event the student does not reenroll at that time, the school district shall make at least one (1) more attempt to reenroll the student before the beginning of the school year following the school year in which the student terminated his or her enrollment.

➔Section 2. KRS 159.020 is amended to read as follows:

Any parent, guardian, or other person having in custody or charge any child who has entered the primary school program ***and is subject to compulsory attendance under Section 1 of this Act*** ~~for any child between the ages of six (6) and sixteen (16)~~ who removes the child from a school district during the school term shall enroll the child in a regular public day school in the district to which the child is moved, and the child shall attend school in the district to which ***the child*** ~~he~~ is moved for the full term provided by that district.

Signed by Governor March 18, 2013.

CHAPTER 12

(SB 21)

AN ACT relating to the Kentucky Housing Corporation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 198A.715 is amended to read as follows:

- (1) The administering agency for the trust fund shall be the Kentucky Housing Corporation, which shall use moneys from the trust fund to make, or participate in the making, of loans or grants for the eligible activities described in this section. Loans or grants shall be made upon the determination by the corporation that the loan or grant shall be used to create new sources of funding, or to supplement existing sources of funding for eligible activities, and shall not be used to replace existing or available funds.
- (2) Activities eligible for funding shall include:
- (a) Provision of matching funds for federal housing dollars requiring a local or state match including, but not limited to, the National Affordable Housing Act of 1990;

- (b) Acquisition of housing units for the purpose of preservation or conversion as very low-income housing;
 - (c) New construction or rehabilitation of very low income housing units;
 - (d) Matching funds for technical assistance directly related to providing housing for persons pursuant to KRS 198A.700 to 198A.730; and
 - (e) Administrative costs for housing assistance programs or organizations eligible for funding pursuant to subsection (3) of this section, if the grants or loans will substantially increase the recipient's access to housing funds other than those available under KRS 198A.700 to 198A.730.
- (3) Organizations eligible for funding from the trust fund include:
- (a) Local governments;~~;~~
 - (b) Local government housing authorities;~~;~~
 - (c) Nonprofit organizations;~~;~~ ~~and~~
 - (d) Regional or statewide housing assistance organizations; **and**
 - (e) ***Sponsors who work in connection with rental housing developments that receive low-income tax credits under Section 42 of the Internal Revenue Code of 1986, as amended. Sponsors, as set out in this paragraph, shall only be eligible if the corporation determines a nonprofit organization owns at least a fifty-one percent (51%) interest in the sponsor and materially participates in the development and operation of the rental housing.***
- (4) Housing units provided to very low-income persons or families pursuant to KRS 198A.700 to 198A.730, shall be deed-restricted under the following conditions:
- (a) Rental housing shall be deed-restricted for a minimum of thirty (30) years. Amendments may be granted by the ~~board of directors of the~~ corporation on a case-by-case basis. Investment from the trust fund into a specific housing type shall revert to like housing for very low-income persons.
 - (b) Single-family units or units for sale shall be deed restricted for a minimum of five (5) years. ***Amendments may be granted by the corporation on a case-by-case basis.***
- (5) In the development of housing pursuant to KRS 198A.700 to 198A.730, displacement of very low-income persons shall not be permitted unless the project shall pay all reasonable relocation costs as defined by the ~~board of directors of the~~ corporation.
- (6) There shall not be discrimination in the sale or rental, or otherwise making available or denying, a dwelling funded under KRS 198A.700 to 198A.730 to any buyer or renter because of race, religion, sex, familial status, disability, or national origin.
- (7) In the event that the corporation chooses to use trust fund dollars with or as a match to the Federal Home Investment Partnership Program or other federal programs, the strictest affordability requirements shall apply.
- (8) Trust fund dollars shall be contributed permanently to a project, except when serving as a match for federal housing programs that require all funds to be contributed permanently to the federal program. All repayment, interest, or other return on the investment of trust fund dollars are required to be returned to the trust fund and used for eligible trust fund activities in accordance with the requirements of KRS 198A.700 to 198A.730. Trust fund dollars invested in a project with federal dollars requiring a permanent contribution shall be recaptured to the federal program account.
- (9) ***On or before October 1 of each fiscal year, the Kentucky Housing Corporation shall submit a report to the Legislative Research Commission on the disposition of the affordable housing trust fund moneys for the previous fiscal year***~~[The Kentucky Housing Corporation shall report semiannually to the Interim Joint Committee on Appropriations and Revenue on how the money transferred from the Kentucky Lottery Corporation's unclaimed prize account under KRS 154A.110(3) has been utilized. The corporation shall also make an annual report to the Legislative Research Commission on the disposition of the Kentucky Lottery Corporation's unclaimed prize money for each fiscal year].~~
- ➔Section 2. KRS 198A.720 is amended to read as follows:
- (1) The corporation shall issue a public notice to eligible recipients of the availability of trust funds at least twice each calendar year and provide for reasonable opportunity for the filing of applications.

- (2) The corporation shall approve or deny properly submitted and completed applications within **ninety (90)**~~sixty (60)~~ days of their receipt.
- (3) The corporation shall grant as many applications as will effectively use available funds.
- (4) The corporation shall grant or deny applications by ranking the **applications**~~application's~~ competitively using criteria established by the **corporation in consultation with the advisory committee for the trust fund created under KRS 198A.725. The corporation shall give priority to**~~board of directors of the corporation. Applications shall receive the following priority rankings~~:
 - (a) Applications for projects submitted by nonprofit organizations or local governments for new construction for families ~~shall receive first priority funding~~;
 - (b) Applications for projects using existing privately-owned housing stock, including stock purchased by nonprofit public development authorities~~, shall receive second priority funding~~;
 - (c) Applications for projects using existing publicly-owned housing stock ~~shall receive third priority funding~~; and
 - (d) Applications from local governments for projects that demonstrate effective zoning, conversion, or demolition controls for single room occupancy units ~~shall receive fourth priority funding~~.
- (5) The corporation shall limit funds to be used for administrative costs to no more than **seven and one-half percent (7.5%)**~~five percent (5%)~~ of available funds, and shall disapprove any project in which more than **seven and one-half percent (7.5%)**~~five percent (5%)~~ of available funds shall be used for administrative costs.
- (6) The corporation shall require at least forty percent (40%) of all funds received to be used for rural areas of the Commonwealth, **which shall periodically be defined by the board of directors of the corporation**~~, excluding the following areas: Ashland, Bowling Green, Covington, Henderson, Hopkinsville, Jefferson County, Lexington Fayette County, Louisville, Owensboro, and Paducah~~.
- (7) Funds targeted under this section that are not expended or set-aside within twenty-four (24) months from allocation may be reallocated in nontargeted communities for very low-income persons. The corporation may extend the twenty-four (24) month period for good cause; however, an extension shall not exceed an additional twelve (12) month period.
- (8) The corporation shall provide technical assistance to eligible recipients seeking to construct, rehabilitate, or finance housing-related services for very low-income persons. The corporation may contract with nonprofit organizations to provide the technical assistance required by this subsection.
- (9) The corporation shall provide or contract for the following services:
 - (a) Financial planning and packaging for housing projects including alternative ownership programs and bridge financing;
 - (b) Project design, architectural planning, siting, and compliance with planning requirements;
 - (c) Securing matching resources for project development;
 - (d) Maximizing local government contributions to project development in the form of land donations, infrastructure improvements, waivers of development fees, local and state managed funds, zoning variances, density bonuses for low rise-multifamily projects, or creative local planning;
 - (e) Coordination with local planning, economic development, environmental, technical assistance, and recreational activities;
 - (f) Construction and material management; and
 - (g) Project maintenance and management.

➔Section 3. The following KRS section is repealed:

198A.067 Ordinance required for financing for certain multifamily housing.

Signed by Governor March 19, 2013.

CHAPTER 13

(SB 32)

AN ACT relating to donations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "mounted wildlife specimen" means:*
 - (a) *A legally taken animal, including the skin of the head, cape, or the entire skin, mounted in a lifelike representation of the animal or any part thereof; or*
 - (b) *A European mount in which the horns or antlers and the skull or a portion of the skull are mounted for display.*
- (2) *Notwithstanding KRS 150.180 and no later than January 1, 2014, the department shall promulgate administrative regulations to allow a resident nonprofit charitable, religious, or educational institution which has qualified for exemption from income taxation under Section 501(c)(3) of the Internal Revenue Code to sell mounted wildlife specimens, except as prohibited by federal law, that have been donated to that institution.*
- (3) *The administrative regulations promulgated under this section shall establish a means by which each transaction for the sale of donated mounted wildlife specimens for white-tailed deer, elk, bears, turkeys, and bobcats allowed under subsection (2) of this section shall be recorded by the department. The department shall make the recording of each transaction as reasonably convenient for all parties to the transaction as possible, which may include but not be limited to allowing telephone and Internet recording of sales.*
- (4) *Licensed taxidermists subject to the reporting requirements under KRS 150.4111 shall be exempt from the requirements of subsection (3) of this section.*

➔Section 2. KRS 367.668 is amended to read as follows:

- (1) Prior to orally requesting a contribution or when requesting a contribution in writing, a professional solicitor shall clearly disclose:
 - (a) *The professional solicitor's~~His~~ name, as set out in the registration statement filed with the Attorney General pursuant to KRS 367.652, phone number or e-mail address, and the fact that the professional solicitor~~he~~ is being paid for providing~~his~~ services;~~;~~*
 - (b) *The name of the charitable organization the professional solicitor~~he~~ represents and a description of how the contributions raised by the solicitation will be used for a charitable or civic purpose; and~~;~~*
 - (c) *If the professional solicitor places or maintains a receptacle in public view for the purpose of collecting contributions in the form of clothing, household items, and other items, the receptacle shall contain a sign or label that:*
 1. *Includes the information contained in paragraphs (a) and (b) of this subsection;*
 2. *Includes a statement that reads as follows: "Items donated here support, in part, a for-profit professional solicitor.";*
 3. *Is in lettering not less than three (3) inches in height and one-half (1/2) inch in width; and*
 4. *Is placed immediately below the opening in the receptacle used to deposit donations.*
- (2) Any individual who acts on behalf of the professional solicitor and identifies himself by name shall give his legal name.
- (3) Any responses given by or on behalf of a professional solicitor to an oral or written request for information shall be truthful.
- (4) The written confirmation, receipt, or reminder sent to a contributor or one who has pledged to contribute, following an oral solicitation, shall clearly include the information required by subsections (1) and (2) of this section.
- (5) If the person being solicited requests information regarding the amount or percentage of funds going to the charitable organization or for a charitable or civic purpose, the professional solicitor shall inform the person

solicited of the percentage of the gross revenue or the reasonable estimate of the gross revenue that the charitable organization will receive from the solicitation campaign. The Attorney General shall promulgate administrative regulations necessary to effectuate this disclosure.

➔Section 3. The following KRS section is repealed:

367.178 Collection of donated clothing, household items, or other items for resale.

Signed by Governor March 19, 2013.

CHAPTER 14

(SB 56)

AN ACT relating to preservation of digital, video, and audio recordings by schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 160.705 is amended to read as follows:

- (1) Education records of students in the public educational institutions in this state are deemed confidential and shall not be disclosed, or the contents released, except under the circumstances described in KRS 160.720.
- (2) School officials shall take precautions to protect and preserve all education records including records generated and stored in the education technology system. ***School officials shall:***
 - (a) ***Retain for a minimum period of one (1) week a master copy of any digital, video, or audio recordings of school activities without editing, altering, or destroying any portion of the recordings, although secondary copies of the master copy may be edited; and***
 - (b) ***Retain for a minimum of one (1) month in an appropriate format, a master copy of any digital, video, or audio recordings of activities that include, or allegedly include, injury to students or school employees without editing, altering, or destroying any portion of the recordings.***
- (3) ***Recordings of school activities shall be subject to privacy and confidentiality requirements as provided in this chapter.***

Signed by Governor March 19, 2013.

CHAPTER 15

(SB 59)

AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

- I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
 2. Lieutenant Governor.
 3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
 4. Department of Law.
 - (a) Attorney General.
 5. Department of the Treasury.
 - (a) Treasurer.
 6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
 7. Auditor of Public Accounts.
- II. Program cabinets headed by appointed officers:
1. Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Office of Drug Control Policy.
 - (g) Office of Legal Services.
 - (h) Office of the Kentucky State Medical Examiner.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Office of Legislative and Intergovernmental Services.
 - (l) Office of Management and Administrative Services.
 - (m) Office of Investigations.
 - (n) Department for Public Advocacy.
 2. Education and Workforce Development Cabinet:
 - (a) Office of the Secretary.
 1. Governor's Scholars Program.
 - (b) Office of Legal and Legislative Services.
 1. Client Assistance Program.
 - (c) Office of Communication.
 - (d) Office of Budget and Administration.
 1. Division of Human Resources.
 2. Division of Administrative Services.

3. Division of Technology Services.
- (e) Office of Educational Programs.
- (f) Board of Directors for the Center for School Safety.
- (g) ~~{Council on Postsecondary Education-
1. — Foundation for Adult Education-
(h) —}~~ Department of Education.
 1. Kentucky Board of Education.
 - ~~(h){(i)}~~ Department for Libraries and Archives.
 - ~~(i){(j)}~~ Department of Workforce Investment.
 1. Office for the Blind.
 2. Office of Vocational Rehabilitation.
 3. Office of Career and Technical Education.
 4. Office of Employment and Training.
 - ~~(j){(k)}~~ Foundation for Workforce Development.
 - ~~(k){(l)}~~ Kentucky Office for the Blind State Rehabilitation Council.
 - ~~(l){(m)}~~ Kentucky Technical Education Personnel Board.
 - ~~(m){(n)}~~ Kentucky Workforce Investment Board.
 - ~~(n){(o)}~~ Statewide Council for Vocational Rehabilitation.
 - ~~(o){(p)}~~ Statewide Independent Living Council.
 - ~~(p){(q)}~~ Unemployment Insurance Commission.
 - ~~(q){(r)}~~ Education Professional Standards Board.
 1. Division of Educator Preparation.
 2. Division of Certification.
 3. Division of Professional Learning and Assessment.
 4. Division of Legal Services.
 - ~~(r){(s)}~~ Kentucky Commission on the Deaf and Hard of Hearing.
 - ~~(s){(t)}~~ Kentucky Educational Television.
 - ~~(t){(u)}~~ Kentucky Environmental Education Council.
3. Energy and Environment Cabinet:
 - (a) Office of the Secretary.
 1. Office of Legislative and Intergovernmental Affairs.
 2. Office of General Counsel.
 - a. Environmental Protection Legal Division.
 3. Office of Administrative Hearings.
 4. Mine Safety Review Commission.
 5. Kentucky State Nature Preserves Commission.
 6. Kentucky Environmental Quality Commission.
 7. Kentucky Public Service Commission.
 - (b) Department for Environmental Protection.

1. Office of the Commissioner.
 2. Division for Air Quality.
 3. Division of Water.
 4. Division of Environmental Program Support.
 5. Division of Waste Management.
 6. Division of Enforcement.
 7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
1. Office of the Commissioner.
 2. Division of Technical and Administrative Support.
 3. Division of Mine Permits.
 4. Division of Mine Reclamation and Enforcement.
 5. Division of Abandoned Mine Lands.
 6. Division of Oil and Gas.
 7. Office of Mine Safety and Licensing.
 8. Division of Forestry.
 9. Division of Conservation.
- (d) Department for Energy Development and Independence.
1. Division of Efficiency and Conservation.
 2. Division of Renewable Energy.
 3. Division of Biofuels.
 4. Division of Energy Generation Transmission and Distribution.
 5. Division of Carbon Management.
 6. Division of Fossil Energy Development.
4. Public Protection Cabinet.
- (a) Office of the Secretary.
1. Office of Communications and Public Outreach.
 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
- (b) Crime Victims Compensation Board.
- (c) Board of Claims.
- (d) Kentucky Board of Tax Appeals.
- (e) Kentucky Boxing and Wrestling Authority.
- (f) Kentucky Horse Racing Commission.
1. Division of Licensing.

2. Division of Incentives and Development.
 3. Division of Veterinary Services.
 4. Division of Security and Enforcement.
 - (g) Department of Alcoholic Beverage Control.
 1. Division of Distilled Spirits.
 2. Division of Malt Beverages.
 3. Division of Enforcement.
 - (h) Department of Charitable Gaming.
 1. Division of Licensing and Compliance.
 2. Division of Enforcement.
 - (i) Department of Financial Institutions.
 1. Division of Depository Institutions.
 2. Division of Non-Depository Institutions.
 3. Division of Securities.
 - (j) Department of Housing, Buildings and Construction.
 1. Division of Fire Prevention.
 2. Division of Plumbing.
 3. Division of Heating, Ventilation, and Air Conditioning.
 4. Division of Building Code Enforcement.
 - (k) Department of Insurance.
 1. Property and Casualty Division.
 2. Health and Life Division.
 3. Division of Financial Standards and Examination.
 4. Division of Agent Licensing.
 5. Division of Insurance Fraud Investigation.
 6. Consumer Protection Division.
 7. Division of Kentucky Access.
 - (l) Office of Occupations and Professions.
5. Labor Cabinet.
- (a) Office of the Secretary.
 1. Division of Management Services.
 2. Office of General Counsel.
 - (b) Office of General Administration and Program Support for Shared Services.
 1. Division of Human Resource Management.
 2. Division of Fiscal Management.
 3. Division of Budgets.
 4. Division of Information Services.
 - (c) Office of Inspector General for Shared Services.
 - (d) Department of Workplace Standards.

ACTS OF THE GENERAL ASSEMBLY

1. Division of Employment Standards, Apprenticeship, and Mediation.
 2. Division of Occupational Safety and Health Compliance.
 3. Division of Occupational Safety and Health Education and Training.
 4. Division of Workers' Compensation Funds.
 - (e) Department of Workers' Claims.
 1. Office of General Counsel for Workers' Claims.
 2. Office of Administrative Law Judges.
 3. Division of Claims Processing.
 4. Division of Security and Compliance.
 5. Division of Information and Research.
 6. Division of Ombudsman and Workers' Compensation Specialist Services.
 7. Workers' Compensation Board.
 8. Workers' Compensation Advisory Council.
 9. Workers' Compensation Nominating Commission.
 - (f) Workers' Compensation Funding Commission.
 - (g) Kentucky Labor-Management Advisory Council.
 - (h) Occupational Safety and Health Standards Board.
 - (i) Prevailing Wage Review Board.
 - (j) Apprenticeship and Training Council.
 - (k) State Labor Relations Board.
 - (l) Employers' Mutual Insurance Authority.
 - (m) Kentucky Occupational Safety and Health Review Commission.
6. Transportation Cabinet:
- (a) Department of Highways.
 1. Office of Project Development.
 2. Office of Project Delivery and Preservation.
 3. Office of Highway Safety.
 4. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Aviation.
 - (d) Department of Rural and Municipal Aid.
 1. Office of Local Programs.
 2. Office of Rural and Secondary Roads.
 - (e) Office of the Secretary.
 1. Office of Public Affairs.
 2. Office for Civil Rights and Small Business Development.
 3. Office of Budget and Fiscal Management.
 4. Office of Inspector General.
 - (f) Office of Support Services.

- (g) Office of Transportation Delivery.
 - (h) Office of Audits.
 - (i) Office of Human Resource Management.
 - (j) Office of Information Technology.
 - (k) Office of Legal Services.
7. Cabinet for Economic Development:
- (a) Office of Administration and Support.
 - (b) Department for New Business Development.
 - (c) Department of Financial Incentives.
 - (d) Department for Existing Business Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
 - (g) Office of Research and Information Technology.
 - (h) Department of Commercialization and Innovation.
 - (i) Office of Legal Services.
 - (j) Commission on Small Business Advocacy.
8. Cabinet for Health and Family Services:
- (a) Office of the Secretary.
 - (b) Office of Health Policy.
 - (c) Office of Legal Services.
 - (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.
 - (g) Office of Policy and Budget.
 - (h) Office of Human Resource Management.
 - (i) Office of Administrative and Technology Services.
 - (j) Department for Public Health.
 - (k) Department for Medicaid Services.
 - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
 - (m) Department for Aging and Independent Living.
 - (n) Department for Community Based Services.
 - (o) Department for Income Support.
 - (p) Department for Family Resource Centers and Volunteer Services.
 - (q) Kentucky Commission on Community Volunteerism and Service.
 - (r) Kentucky Commission for Children with Special Health Care Needs.
 - (s) Governor's Office of Electronic Health Information.
9. Finance and Administration Cabinet:
- (a) Office of General Counsel.
 - (b) Office of the Controller.

- (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Office of Policy and Audit.
 - (f) Department for Facilities and Support Services.
 - (g) Department of Revenue.
 - (h) Commonwealth Office of Technology.
 - (i) State Property and Buildings Commission.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - (k) Kentucky Employees Retirement Systems.
 - (l) Commonwealth Credit Union.
 - (m) State Investment Commission.
 - (n) Kentucky Housing Corporation.
 - (o) Kentucky Local Correctional Facilities Construction Authority.
 - (p) Kentucky Turnpike Authority.
 - (q) Historic Properties Advisory Commission.
 - (r) Kentucky Tobacco Settlement Trust Corporation.
 - (s) Kentucky Higher Education Assistance Authority.
 - (t) Kentucky River Authority.
 - (u) Kentucky Teachers' Retirement System Board of Trustees.
 - (v) Executive Branch Ethics Commission.
10. Tourism, Arts and Heritage Cabinet:
- (a) Kentucky Department of Travel and Tourism.
 - (1) Division of Tourism Services.
 - (2) Division of Marketing and Administration.
 - (3) Division of Communications and Promotions.
 - (b) Kentucky Department of Parks.
 - (1) Division of Information Technology.
 - (2) Division of Human Resources.
 - (3) Division of Financial Operations.
 - (4) Division of Facilities Management.
 - (5) Division of Facilities Maintenance.
 - (6) Division of Customer Services.
 - (7) Division of Recreation.
 - (8) Division of Golf Courses.
 - (9) Division of Food Services.
 - (10) Division of Rangers.
 - (11) Division of Resort Parks.
 - (12) Division of Recreational Parks and Historic Sites.
 - (c) Department of Fish and Wildlife Resources.

- (1) Division of Law Enforcement.
 - (2) Division of Administrative Services.
 - (3) Division of Engineering.
 - (4) Division of Fisheries.
 - (5) Division of Information and Education.
 - (6) Division of Wildlife.
 - (7) Division of Public Affairs.
- (d) Kentucky Horse Park.
- (1) Division of Support Services.
 - (2) Division of Buildings and Grounds.
 - (3) Division of Operational Services.
- (e) Kentucky State Fair Board.
- (1) Office of Administrative and Information Technology Services.
 - (2) Office of Human Resources and Access Control.
 - (3) Division of Expositions.
 - (4) Division of Kentucky Exposition Center Operations.
 - (5) Division of Kentucky International Convention Center.
 - (6) Division of Public Relations and Media.
 - (7) Division of Venue Services.
 - (8) Division of Personnel Management and Staff Development.
 - (9) Division of Sales.
 - (10) Division of Security and Traffic Control.
 - (11) Division of Information Technology.
 - (12) Division of the Louisville Arena.
 - (13) Division of Fiscal and Contract Management.
 - (14) Division of Access Control.
- (f) Office of the Secretary.
- (1) Office of Finance.
 - (2) Office of Research and Administration.
 - (3) Office of Governmental Relations and Tourism Development.
 - (4) Office of the Sports Authority.
 - (5) Kentucky Sports Authority.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.
- (k) Office of Capital Plaza Operations.
- (l) Office of Arts and Cultural Heritage.
- (m) Kentucky African-American Heritage Commission.

- (n) Kentucky Foundation for the Arts.
 - (o) Kentucky Humanities Council.
 - (p) Kentucky Heritage Council.
 - (q) Kentucky Arts Council.
 - (r) Kentucky Historical Society.
 - (1) Division of Museums.
 - (2) Division of Oral History and Educational Outreach.
 - (3) Division of Research and Publications.
 - (4) Division of Administration.
 - (s) Kentucky Center for the Arts.
 - (1) Division of Governor's School for the Arts.
 - (t) Kentucky Artisans Center at Berea.
 - (u) Northern Kentucky Convention Center.
 - (v) Eastern Kentucky Exposition Center.
11. Personnel Cabinet:
- (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Governmental Services Center.
 - (h) Department of Employee Insurance.
 - (i) Office of Diversity and Equality.
 - (j) Center of Strategic Innovation.

III. Other departments headed by appointed officers:

1. ***Council on Postsecondary Education.***
2. Department of Military Affairs.
- 3.~~{2}~~ Department for Local Government.
- 4.~~{3}~~ Kentucky Commission on Human Rights.
- 5.~~{4}~~ Kentucky Commission on Women.
- 6.~~{5}~~ Department of Veterans' Affairs.
- 7.~~{6}~~ Kentucky Commission on Military Affairs.
- 8.~~{7}~~ Office of Minority Empowerment.
- 9.~~{8}~~ Governor's Council on Wellness and Physical Activity.

➔Section 2. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

- (1) ***Council on Postsecondary Education;***
 - (a) ***Foundation for Adult Education;***

- (2) Department of Military Affairs;
- ~~(3)(2)~~ Department for Local Government;
- ~~(4)(3)~~ Kentucky Commission on Human Rights;
- ~~(5)(4)~~ Kentucky Commission on Women;
- ~~(6)(5)~~ Kentucky Commission on Military Affairs;
- ~~(7)(6)~~ Agricultural Development Board;
- ~~(8)(7)~~ Kentucky Agricultural Finance Corporation;
- ~~(9)(8)~~ Office of Minority Empowerment;
 - (a) The Martin Luther King Commission; and
- ~~(10)(9)~~ Office of Homeland Security.

➔Section 3. KRS 151B.020 is amended to read as follows:

- (1) The Education and Workforce Development Cabinet is hereby created, which shall constitute a cabinet of the state government within the meaning of KRS Chapter 12. The cabinet shall consist of a secretary and those administrative bodies and employees as provided by law.
- (2) The cabinet, subject to the provisions of KRS Chapter 12, shall be composed of the major organizational units listed below, units listed in KRS 12.020, and other departments, divisions, and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet:
 - (a) The Department of Workforce Investment, which is hereby created and established within the Education and Workforce Development Cabinet. The department shall be directed and managed by a commissioner who shall be appointed by the Governor under the provisions of KRS 12.040, and who shall report to the secretary of the Education and Workforce Development Cabinet. The department shall be composed of the following offices:
 - 1. The Office of Career and Technical Education, which is created by KRS 151B.025;
 - 2. The Office of Vocational Rehabilitation, which is created by KRS 151B.185;
 - 3. The Office for the Blind established by KRS 163.470; and
 - 4. The Office of Employment and Training, which is created by KRS 151B.280;
 - (b) The Kentucky Technical Education Personnel Board established in KRS 151B.097; and
 - (c) The Unemployment Insurance Commission established by KRS 341.110.
- (3) The executive officer of the cabinet shall be the secretary of the Education and Workforce Development Cabinet. The secretary shall be appointed by the Governor pursuant to KRS 12.255 and shall serve at the pleasure of the Governor. The secretary shall have general supervision and direction over all activities and functions of the cabinet and its employees and shall be responsible for carrying out the programs and policies of the cabinet. The secretary shall be the chief executive officer of the cabinet and shall have authority to enter into contracts, subject to the approval of the secretary of the Finance and Administration Cabinet, when the contracts are deemed necessary to implement and carry out the programs of the cabinet. The secretary shall have the authority to require coordination and nonduplication of services provided under the Federal Workforce Investment Act of 1998, 20 U.S.C. secs. 9201 et seq. The secretary shall have the authority to mandate fiscal responsibility dispute resolution procedures among state organizational units for services provided under the Federal Workforce Investment Act of 1998, 20 U.S.C. secs. 9201 et seq.
- (4) The secretary of the Education and Workforce Development Cabinet and the secretary's designated representatives, in the discharge of the duties of the secretary, may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of books, papers, correspondence, memoranda, and other records considered necessary and relevant as evidence at hearings held in connection with the administration of the cabinet.
- (5) The secretary of the Education and Workforce Development Cabinet may delegate any duties of the secretary's office to employees of the cabinet as he or she deems necessary and appropriate, unless otherwise prohibited by statute.

- (6) The secretary of the Education and Workforce Development Cabinet shall promulgate, administer, and enforce administrative regulations that are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds, and that are necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs except for programs and federal funds within the authority of the ~~Council on Postsecondary Education, the~~ Department of Education, the Kentucky Board of Education, and the Education Professional Standards Board.

➔Section 4. KRS 151B.130 is amended to read as follows:

- (1) There is hereby established a nonprofit foundation to be known as the "Foundation for Adult Education." The purpose of the foundation shall be to supplement public funding for adult training in order to expand existing basic skills training programs.
- (2) Funding for the foundation shall be obtained through contributions by the private sector. The foundation shall be empowered to solicit and accept funds from the private sector to be used for grants to local education agencies to fund adult basic education programs especially designed for business and industry. Contributors may specify that contributed funds be used to improve the educational level of their employees as it relates to the GED instruction program.
- (3) The foundation shall be governed by a board of trustees to be appointed by the *president of the Council on Postsecondary Education* ~~secretary of the Education and Workforce Development Cabinet~~ with responsibility for adult education programs based on recommendations from business, industry, labor, education, and interested citizens. Staff for the board of trustees shall be provided by the *council* ~~cabinet~~.
- (4) The foundation shall be attached to the office of the president of the Council on Postsecondary Education for administrative purposes.

➔Section 5. The General Assembly confirms Executive Order 2012-419, dated June 18, 2012, to the extent it is not otherwise confirmed or superseded by this Act.

Signed by Governor March 19, 2013.

CHAPTER 16

(SB 67)

AN ACT relating to persons incompetent to stand trial.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 186.560 is amended to read as follows:

- (1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his *or her*:
- (a) Conviction of any of the following offenses:
1. ~~(a)~~ Murder or manslaughter resulting from the operation of a motor vehicle;
 2. ~~(b)~~ Driving a vehicle which is not a motor vehicle while under the influence of alcohol or any other substance which may impair one's driving ability;
 3. ~~(c)~~ Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways;
 4. ~~(d)~~ Any felony in the commission of which a motor vehicle is used;
 5. ~~(e)~~ Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months;
 6. ~~(f)~~ Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident;
 7. ~~(g)~~ Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years;

~~8.(4)~~ Failure to have in full force and effect the security required by Subtitle 39 of KRS Chapter 304 upon conviction of a second and each subsequent offense within any five (5) year period;

~~9.(4)~~ Conviction for fraudulent use of a driver's license or use of a fraudulent driver's license to purchase or attempt to purchase alcoholic beverages, as defined in KRS 241.010, in violation of KRS 244.085(5); and

~~10.(4)~~ Conviction of operating a motor vehicle, motorcycle, or moped without an operator's license as required by KRS 186.410; *or*

(b) *Being found incompetent to stand trial under KRS Chapter 504.*

- (2) If the person convicted of any offense named in subsection (1) of this section *or who is found incompetent to stand trial* is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.
- (3) The cabinet, upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied, or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation, or withdrawal for an additional like period.
- (4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle for a violation of subsection (1)(a) ~~I.~~ of this section shall be for a period of not less than five (5) years. Revocations or denials under this section shall not be subject to any lessening of penalties authorized under any other provision of this section or any other statute.
- (5) Except as provided in subsections (3), (4), ~~and~~ (8), *and* (9) of this section, in all other cases, the revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial, or withdrawal shall be one (1) year. If the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial, or withdrawal shall be for not less than two (2) years. If the cabinet, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520(1) or 244.085(5) as relates to instances in which a driver's license or fraudulent driver's license was the identification used or attempted to be used in the commission of the offense, who has had no previous conviction of said offense, the person's operator's license shall not be revoked, but the person's operator's license shall be restricted to any terms and conditions the secretary in his discretion may require, provided the person has enrolled in an alcohol or substance abuse education or treatment program as the cabinet shall require. If the person fails to satisfactorily complete the education or treatment program or violates the restrictions on his operator's license, the cabinet shall immediately revoke his operator's license for a period of six (6) months.
- (6) In order to secure the reinstatement of a license to operate a motor vehicle or motorcycle restored following a period of suspension or revocation pursuant to KRS 189A.070, 189A.080, and 189A.090, the person whose license is suspended or revoked shall comply with the fees and other procedures of the Transportation Cabinet with regard to the reinstatement of suspended or revoked licenses.
- (7) The cabinet shall revoke the license of any operator of a motor vehicle upon receiving notification that the person is under age eighteen (18) and has dropped out of school or is academically deficient, as defined in KRS 159.051(1).
- (8) A person under the age of eighteen (18) who is convicted of the offenses of subsections (1) or (3) of this section, except for subsection (1)(a) ~~8.(b)~~ or ~~8.(c)~~ of this section, shall have his license revoked until he reaches the age of eighteen (18) or shall have his license revoked as provided in this section, whichever penalty will result in the longer period of revocation.
- (9) *A revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section due to a person being found incompetent to stand trial shall extend until the person is found competent to stand trial or the criminal case is dismissed.*

Signed by Governor March 19, 2013.

CHAPTER 17

(SB 72)

AN ACT relating to suicide prevention training.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

(a) *"Board" means the Kentucky Board of Social Work, Kentucky Board of Licensure of Marriage and Family Therapists, Kentucky Board of Licensed Professional Counselors, Kentucky Board of Certification of Fee-Based Pastoral Counselors, Kentucky Board of Certification of Alcohol and Drug Counselors, Kentucky Board of Examiners of Psychology, and Kentucky Board of Licensure for Occupational Therapy; and*

(b) *"Training program in suicide assessment, treatment, and management" means an empirically supported training program approved by the boards that contains suicide assessment including screening and referral, suicide treatment, and suicide management. A board may approve a training program that excludes one (1) of the elements if the element is inappropriate for the profession in question or inappropriate for the level of licensure or credentialing of that profession based on the profession's scope of practice. A training program that includes only screening and referral elements shall be at least three (3) hours in length. All other training programs approved under this section shall be at least six (6) hours in length.*

(2) *Beginning January 1, 2015, each of the following professionals certified or licensed under KRS Title XXVI shall, at least once every six (6) years, complete a training program in suicide assessment, treatment, and management that is approved, in administrative regulations, by the respective boards:*

(a) *A social worker, marriage and family therapist, professional counselor, or fee-based pastoral counselor certified or licensed under KRS Chapter 335;*

(b) *An alcohol and drug counselor certified under KRS Chapter 309;*

(c) *A psychologist licensed or certified under KRS Chapter 319; and*

(d) *An occupational therapist licensed under KRS Chapter 319A.*

(3) (a) *Except as provided in paragraph (b) of this subsection, a professional listed in subsection (2) of this section must complete the first training required by this section by July 2016.*

(b) *A professional listed in subsection (2) of this section applying for initial licensure or certification on or after the effective date of this Act may delay completion of the first training required by this section for six (6) years after initial licensure or certification if he or she can demonstrate successful completion of a six (6) hour academic training program in suicide assessment, treatment, and management that:*

1. *Was completed no more than six (6) years prior to the application for initial licensure or certification; and*

2. *Is listed on the best practices registry of the American Foundation for Suicide Prevention and the Suicide Prevention Resource Center.*

(4) *The hours spent completing a training program in suicide assessment, treatment, and management under this section count toward meeting any applicable continuing education requirements for each profession.*

(5) *A board may, by administrative regulation, specify minimum training and experience that is sufficient to exempt a professional from the training requirements in subsection (2) of this section.*

(6) (a) *The cabinet shall develop a model list of training programs in suicide assessment, treatment, and management.*

- (b) *When developing the model list, the cabinet shall:*
1. *Consider suicide assessment, treatment, and management training programs of at least six (6) hours in length listed on the best practices registry of the American Foundation for Suicide Prevention and the Suicide Prevention Resource Center; and*
 2. *Consult with the boards, public and private institutions of higher education, experts in suicide assessment, treatment, and management, and affected professional associations.*
- (c) *The cabinet shall report the model list of training programs to the Interim Joint Committee on Health and Welfare no later than December 15, 2014.*
- (7) *Nothing in this section may be interpreted to expand or limit the scope of practice of any profession regulated under KRS Title XXVI.*
- (8) *The cabinet and the boards affected by this section shall adopt any administrative regulations necessary to implement this section.*

Signed by Governor March 19, 2013.

CHAPTER 18

(SB 83)

AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act, unless the context requires otherwise:

- (1) *"Board" means the Board of the Kentucky Center for Education and Workforce Statistics established in subsection (1) of Section 4 of this Act;*
- (2) *"De-identification" means a process for removing identity information so the education data and workforce data can be analyzed without disclosing the identity of the individuals or employers whose data are being utilized;*
- (3) *"Education data" means the following data relating to student performance from early childhood learning programs through postsecondary education:*
 - (a) *College and career readiness;*
 - (b) *Course and grade;*
 - (c) *Degree, diploma, or credential attainment;*
 - (d) *Demographic;*
 - (e) *Educator;*
 - (f) *Enrollment;*
 - (g) *Financial aid;*
 - (h) *High school equivalency diploma;*
 - (i) *Remediation;*
 - (j) *Retention;*
 - (k) *State and national assessments;*
 - (l) *Transcripts;*
 - (m) *Vocational and technical education information; and*

- (n) *Any other data impacting education deemed necessary by the office;*
- (4) *"Kentucky Longitudinal Data System" is a statewide data system that contains education data and workforce data;*
- (5) *"Office" means the Office for Education and Workforce Statistics established in subsection (1) of Section 2 of this Act; and*
- (6) *"Workforce data" means data relating to:*
 - (a) *Certification and licensure;*
 - (b) *Employer information;*
 - (c) *Employment status;*
 - (d) *Geographic location of employment;*
 - (e) *Job service and training information to support enhanced employment opportunities;*
 - (f) *Wage information; and*
 - (g) *Any other data impacting the workforce deemed necessary by the office.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

- (1) *The Office for Education and Workforce Statistics is hereby established and attached to the Education and Workforce Development Cabinet, Office of the Secretary.*
- (2) *The office's purpose is to collect accurate education data and workforce data in the Kentucky Longitudinal Data System in order to link the data and generate timely reports about student performance through employment to be used to guide decision makers in improving the Commonwealth of Kentucky's education system and training programs.*
- (3) *The office shall be headed by an executive director appointed by the Governor pursuant to KRS 12.050. The executive director shall be appointed from nominations made to the Governor by the board. The office may employ additional staff necessary to carry out the office's duties consistent with available funding and state personnel laws.*
- (4) *The public agencies providing education data and workforce data to the Kentucky Longitudinal Data System shall be:*
 - (a) *The Council on Postsecondary Education;*
 - (b) *The Department of Education;*
 - (c) *The Early Childhood Advisory Council;*
 - (d) *The Education Professional Standards Board;*
 - (e) *The Kentucky Higher Education Assistance Authority;*
 - (f) *The Kentucky Commission on Proprietary Education; and*
 - (g) *Other agencies of the Education and Workforce Development Cabinet.*
- (5) *The Kentucky Longitudinal Data System, upon approval of the board, may include education data and workforce data from any additional public agency.*
- (6) *Any private institution of higher education, private school, or parochial school, upon approval of the board, may provide education data and workforce data to the Kentucky Longitudinal Data System.*
- (7) *Any education data or workforce data provided to the Kentucky Longitudinal Data System shall be certified to be accurate by the providing agency, institution, or school. Ownership of data provided shall be retained by the providing entity.*
- (8) *The office may receive funding for its operation of the Kentucky Longitudinal Data System from the following sources:*
 - (a) *State appropriations;*
 - (b) *Federal grants;*

- (c) *User fees; and*
- (d) *Any other grants or contributions from public agencies or other entities.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

The duties of the Office for Education and Workforce Statistics shall be to:

- (1) *Oversee and maintain the warehouse of education data and workforce data in the Kentucky Longitudinal Data System;*
- (2) *Develop de-identification standards and processes using modern statistical methods;*
- (3) *Conduct research and evaluation regarding federal, state, and local education and training programs at all levels;*
- (4) *Audit and ensure compliance of education and training programs with applicable federal and state requirements as authorized by federal and state law;*
- (5) *Define statewide education, workforce development, and employment metrics;*
- (6) *Work with public agencies and other entities to ensure the integrity and quality of data being collected;*
- (7) *Link education data and workforce data from multiple sources for consideration in developing broad public policy initiatives;*
- (8) *Develop requirements and definitions for data to be provided by any public agency, private institution of higher education, private school, or parochial school;*
- (9) *Develop a reasonable fee schedule for services provided;*
- (10) *Establish data quality standards;*
- (11) *Promulgate administrative regulations necessary for the proper administration of the Kentucky Longitudinal Data System;*
- (12) *Ensure compliance with the federal Family Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g, and all other relevant federal and state privacy laws;*
- (13) *Respond to approved research data requests in accordance with the data access and use policy established by the board; and*
- (14) *Enter into contracts or other agreements with appropriate entities, including but not limited to federal, state, and local agencies, to the extent necessary to carry out its duties and responsibilities only if such contracts or agreements incorporate adequate protections with respect to the confidentiality of any information to be shared.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

- (1) *The Board of the Kentucky Center for Education and Workforce Statistics is hereby established and attached to the Education and Workforce Development Cabinet, Office of the Secretary.*
- (2) *The board shall be composed of:*
 - (a) *The commissioner of the Department of Education or designee;*
 - (b) *The executive director of the Education Professional Standards Board or designee;*
 - (c) *The president of the Council on Postsecondary Education or designee;*
 - (d) *The secretary of the Education and Workforce Development Cabinet or designee; and*
 - (e) *The executive director of the Kentucky Higher Education Assistance Authority.*
- (3) *The duties and functions of the board shall be to:*
 - (a) *Develop a detailed data access and use policy for requests that shall include but not be limited to the following:*
 - 1. *Direct access to data in the Kentucky Longitudinal Data System shall be restricted to authorized staff of the office;*

2. *Data or information that may result in any individual or employer being identifiable based on the size or uniqueness of the population under consideration may not be reported in any form by the office; and*
 3. *The office may not release data or information if disclosure is prohibited under relevant federal or state privacy laws;*
- (b) *Establish the research agenda of the office;*
 - (c) *Make nominations to the Governor for the appointment of an executive director;*
 - (d) *Oversee compliance by the office with the federal Family Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g, and other relevant federal and state privacy laws; and*
 - (e) *Provide general oversight of the office.*
- (4) *The secretary of the Education and Workforce Development Cabinet shall serve as chair of the board.*
 - (5) *The board shall meet at least semiannually and at other times upon the call of the chair. The meetings shall be subject to the open meetings requirements of KRS 61.800 to 61.850 and 61.991.*
 - (6) *The board may form committees, work groups, or advisory councils to accomplish its purposes.*

➔Section 5. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
4. Department of Law.
 - (a) Attorney General.
5. Department of the Treasury.
 - (a) Treasurer.
6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

1. Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.

- (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Office of Drug Control Policy.
 - (g) Office of Legal Services.
 - (h) Office of the Kentucky State Medical Examiner.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Office of Legislative and Intergovernmental Services.
 - (l) Office of Management and Administrative Services.
 - (m) Office of Investigations.
 - (n) Department for Public Advocacy.
2. Education and Workforce Development Cabinet:
- (a) Office of the Secretary.
 - 1. Governor's Scholars Program.
 - (b) Office of Legal and Legislative Services.
 - 1. Client Assistance Program.
 - (c) Office of Communication.
 - (d) Office of Budget and Administration.
 - 1. Division of Human Resources.
 - 2. Division of Administrative Services.
 - 3. Division of Technology Services.
 - (e) Office of Educational Programs.
 - (f) *Office for Education and Workforce Statistics.*
 - (g) *Board of the Kentucky Center for Education and Workforce Statistics.*
 - (h) Board of Directors for the Center for School Safety.
 - (i)~~(g)~~ Council on Postsecondary Education.
 - 1. Foundation for Adult Education.
 - (j)~~(h)~~ Department of Education.
 - 1. Kentucky Board of Education.
 - (k)~~(i)~~ Department for Libraries and Archives.
 - (l)~~(j)~~ Department of Workforce Investment.
 - 1. Office for the Blind.
 - 2. Office of Vocational Rehabilitation.
 - 3. Office of Career and Technical Education.
 - 4. Office of Employment and Training.
 - (m)~~(k)~~ Foundation for Workforce Development.
 - (n)~~(l)~~ Kentucky Office for the Blind State Rehabilitation Council.
 - (o)~~(m)~~ Kentucky Technical Education Personnel Board.
 - (p)~~(n)~~ Kentucky Workforce Investment Board.

- (q)~~{(o)}~~ Statewide Council for Vocational Rehabilitation.
 - (r)~~{(p)}~~ Statewide Independent Living Council.
 - (s)~~{(q)}~~ Unemployment Insurance Commission.
 - (t)~~{(r)}~~ Education Professional Standards Board.
 1. Division of Educator Preparation.
 2. Division of Certification.
 3. Division of Professional Learning and Assessment.
 4. Division of Legal Services.
 - (u)~~{(s)}~~ Kentucky Commission on the Deaf and Hard of Hearing.
 - (v)~~{(t)}~~ Kentucky Educational Television.
 - (w)~~{(u)}~~ Kentucky Environmental Education Council.
3. Energy and Environment Cabinet:
- (a) Office of the Secretary.
 1. Office of Legislative and Intergovernmental Affairs.
 2. Office of General Counsel.
 - a. Environmental Protection Legal Division.
 3. Office of Administrative Hearings.
 4. Mine Safety Review Commission.
 5. Kentucky State Nature Preserves Commission.
 6. Kentucky Environmental Quality Commission.
 7. Kentucky Public Service Commission.
 - (b) Department for Environmental Protection.
 1. Office of the Commissioner.
 2. Division for Air Quality.
 3. Division of Water.
 4. Division of Environmental Program Support.
 5. Division of Waste Management.
 6. Division of Enforcement.
 7. Division of Compliance Assistance.
 - (c) Department for Natural Resources.
 1. Office of the Commissioner.
 2. Division of Technical and Administrative Support.
 3. Division of Mine Permits.
 4. Division of Mine Reclamation and Enforcement.
 5. Division of Abandoned Mine Lands.
 6. Division of Oil and Gas.
 7. Office of Mine Safety and Licensing.
 8. Division of Forestry.
 9. Division of Conservation.

- (d) Department for Energy Development and Independence.
 - 1. Division of Efficiency and Conservation.
 - 2. Division of Renewable Energy.
 - 3. Division of Biofuels.
 - 4. Division of Energy Generation Transmission and Distribution.
 - 5. Division of Carbon Management.
 - 6. Division of Fossil Energy Development.
- 4. Public Protection Cabinet.
 - (a) Office of the Secretary.
 - 1. Office of Communications and Public Outreach.
 - 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
 - (b) Crime Victims Compensation Board.
 - (c) Board of Claims.
 - (d) Kentucky Board of Tax Appeals.
 - (e) Kentucky Boxing and Wrestling Authority.
 - (f) Kentucky Horse Racing Commission.
 - 1. Division of Licensing.
 - 2. Division of Incentives and Development.
 - 3. Division of Veterinary Services.
 - 4. Division of Security and Enforcement.
 - (g) Department of Alcoholic Beverage Control.
 - 1. Division of Distilled Spirits.
 - 2. Division of Malt Beverages.
 - 3. Division of Enforcement.
 - (h) Department of Charitable Gaming.
 - 1. Division of Licensing and Compliance.
 - 2. Division of Enforcement.
 - (i) Department of Financial Institutions.
 - 1. Division of Depository Institutions.
 - 2. Division of Non-Depository Institutions.
 - 3. Division of Securities.
 - (j) Department of Housing, Buildings and Construction.
 - 1. Division of Fire Prevention.
 - 2. Division of Plumbing.

3. Division of Heating, Ventilation, and Air Conditioning.
4. Division of Building Code Enforcement.
- (k) Department of Insurance.
 1. Property and Casualty Division.
 2. Health and Life Division.
 3. Division of Financial Standards and Examination.
 4. Division of Agent Licensing.
 5. Division of Insurance Fraud Investigation.
 6. Consumer Protection Division.
 7. Division of Kentucky Access.
- (l) Office of Occupations and Professions.
5. Labor Cabinet.
 - (a) Office of the Secretary.
 1. Division of Management Services.
 2. Office of General Counsel.
 - (b) Office of General Administration and Program Support for Shared Services.
 1. Division of Human Resource Management.
 2. Division of Fiscal Management.
 3. Division of Budgets.
 4. Division of Information Services.
 - (c) Office of Inspector General for Shared Services.
 - (d) Department of Workplace Standards.
 1. Division of Employment Standards, Apprenticeship, and Mediation.
 2. Division of Occupational Safety and Health Compliance.
 3. Division of Occupational Safety and Health Education and Training.
 4. Division of Workers' Compensation Funds.
 - (e) Department of Workers' Claims.
 1. Office of General Counsel for Workers' Claims.
 2. Office of Administrative Law Judges.
 3. Division of Claims Processing.
 4. Division of Security and Compliance.
 5. Division of Information and Research.
 6. Division of Ombudsman and Workers' Compensation Specialist Services.
 7. Workers' Compensation Board.
 8. Workers' Compensation Advisory Council.
 9. Workers' Compensation Nominating Commission.
 - (f) Workers' Compensation Funding Commission.
 - (g) Kentucky Labor-Management Advisory Council.
 - (h) Occupational Safety and Health Standards Board.

- (i) Prevailing Wage Review Board.
 - (j) Apprenticeship and Training Council.
 - (k) State Labor Relations Board.
 - (l) Employers' Mutual Insurance Authority.
 - (m) Kentucky Occupational Safety and Health Review Commission.
6. Transportation Cabinet:
- (a) Department of Highways.
 - 1. Office of Project Development.
 - 2. Office of Project Delivery and Preservation.
 - 3. Office of Highway Safety.
 - 4. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Aviation.
 - (d) Department of Rural and Municipal Aid.
 - 1. Office of Local Programs.
 - 2. Office of Rural and Secondary Roads.
 - (e) Office of the Secretary.
 - 1. Office of Public Affairs.
 - 2. Office for Civil Rights and Small Business Development.
 - 3. Office of Budget and Fiscal Management.
 - 4. Office of Inspector General.
 - (f) Office of Support Services.
 - (g) Office of Transportation Delivery.
 - (h) Office of Audits.
 - (i) Office of Human Resource Management.
 - (j) Office of Information Technology.
 - (k) Office of Legal Services.
7. Cabinet for Economic Development:
- (a) Office of Administration and Support.
 - (b) Department for New Business Development.
 - (c) Department of Financial Incentives.
 - (d) Department for Existing Business Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
 - (g) Office of Research and Information Technology.
 - (h) Department of Commercialization and Innovation.
 - (i) Office of Legal Services.
 - (j) Commission on Small Business Advocacy.
8. Cabinet for Health and Family Services:

- (a) Office of the Secretary.
 - (b) Office of Health Policy.
 - (c) Office of Legal Services.
 - (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.
 - (g) Office of Policy and Budget.
 - (h) Office of Human Resource Management.
 - (i) Office of Administrative and Technology Services.
 - (j) Department for Public Health.
 - (k) Department for Medicaid Services.
 - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
 - (m) Department for Aging and Independent Living.
 - (n) Department for Community Based Services.
 - (o) Department for Income Support.
 - (p) Department for Family Resource Centers and Volunteer Services.
 - (q) Kentucky Commission on Community Volunteerism and Service.
 - (r) Kentucky Commission for Children with Special Health Care Needs.
 - (s) Governor's Office of Electronic Health Information.
9. Finance and Administration Cabinet:
- (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Office of Policy and Audit.
 - (f) Department for Facilities and Support Services.
 - (g) Department of Revenue.
 - (h) Commonwealth Office of Technology.
 - (i) State Property and Buildings Commission.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - (k) Kentucky Employees Retirement Systems.
 - (l) Commonwealth Credit Union.
 - (m) State Investment Commission.
 - (n) Kentucky Housing Corporation.
 - (o) Kentucky Local Correctional Facilities Construction Authority.
 - (p) Kentucky Turnpike Authority.
 - (q) Historic Properties Advisory Commission.
 - (r) Kentucky Tobacco Settlement Trust Corporation.
 - (s) Kentucky Higher Education Assistance Authority.

- (t) Kentucky River Authority.
 - (u) Kentucky Teachers' Retirement System Board of Trustees.
 - (v) Executive Branch Ethics Commission.
10. Tourism, Arts and Heritage Cabinet:
- (a) Kentucky Department of Travel and Tourism.
 - (1) Division of Tourism Services.
 - (2) Division of Marketing and Administration.
 - (3) Division of Communications and Promotions.
 - (b) Kentucky Department of Parks.
 - (1) Division of Information Technology.
 - (2) Division of Human Resources.
 - (3) Division of Financial Operations.
 - (4) Division of Facilities Management.
 - (5) Division of Facilities Maintenance.
 - (6) Division of Customer Services.
 - (7) Division of Recreation.
 - (8) Division of Golf Courses.
 - (9) Division of Food Services.
 - (10) Division of Rangers.
 - (11) Division of Resort Parks.
 - (12) Division of Recreational Parks and Historic Sites.
 - (c) Department of Fish and Wildlife Resources.
 - (1) Division of Law Enforcement.
 - (2) Division of Administrative Services.
 - (3) Division of Engineering.
 - (4) Division of Fisheries.
 - (5) Division of Information and Education.
 - (6) Division of Wildlife.
 - (7) Division of Public Affairs.
 - (d) Kentucky Horse Park.
 - (1) Division of Support Services.
 - (2) Division of Buildings and Grounds.
 - (3) Division of Operational Services.
 - (e) Kentucky State Fair Board.
 - (1) Office of Administrative and Information Technology Services.
 - (2) Office of Human Resources and Access Control.
 - (3) Division of Expositions.
 - (4) Division of Kentucky Exposition Center Operations.
 - (5) Division of Kentucky International Convention Center.

ACTS OF THE GENERAL ASSEMBLY

- (6) Division of Public Relations and Media.
 - (7) Division of Venue Services.
 - (8) Division of Personnel Management and Staff Development.
 - (9) Division of Sales.
 - (10) Division of Security and Traffic Control.
 - (11) Division of Information Technology.
 - (12) Division of the Louisville Arena.
 - (13) Division of Fiscal and Contract Management.
 - (14) Division of Access Control.
 - (f) Office of the Secretary.
 - (1) Office of Finance.
 - (2) Office of Research and Administration.
 - (3) Office of Governmental Relations and Tourism Development.
 - (4) Office of the Sports Authority.
 - (5) Kentucky Sports Authority.
 - (g) Office of Legal Affairs.
 - (h) Office of Human Resources.
 - (i) Office of Public Affairs and Constituent Services.
 - (j) Office of Creative Services.
 - (k) Office of Capital Plaza Operations.
 - (l) Office of Arts and Cultural Heritage.
 - (m) Kentucky African-American Heritage Commission.
 - (n) Kentucky Foundation for the Arts.
 - (o) Kentucky Humanities Council.
 - (p) Kentucky Heritage Council.
 - (q) Kentucky Arts Council.
 - (r) Kentucky Historical Society.
 - (1) Division of Museums.
 - (2) Division of Oral History and Educational Outreach.
 - (3) Division of Research and Publications.
 - (4) Division of Administration.
 - (s) Kentucky Center for the Arts.
 - (1) Division of Governor's School for the Arts.
 - (t) Kentucky Artisans Center at Berea.
 - (u) Northern Kentucky Convention Center.
 - (v) Eastern Kentucky Exposition Center.
11. Personnel Cabinet:
- (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.

- (c) Office of Employee Relations.
- (d) Kentucky Public Employees Deferred Compensation Authority.
- (e) Office of Administrative Services.
- (f) Office of Legal Services.
- (g) Governmental Services Center.
- (h) Department of Employee Insurance.
- (i) Office of Diversity and Equality.
- (j) Center of Strategic Innovation.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Department for Local Government.
- 3. Kentucky Commission on Human Rights.
- 4. Kentucky Commission on Women.
- 5. Department of Veterans' Affairs.
- 6. Kentucky Commission on Military Affairs.
- 7. Office of Minority Empowerment.
- 8. Governor's Council on Wellness and Physical Activity.

➔Section 6. KRS 164.7885 is amended to read as follows:

- (1) Not later than August 1, 1999, and each June 30 thereafter, each Kentucky high school shall submit to the authority, a compiled list of all high school students during the academic year. A high school shall report the grade point average of an eligible high school student pursuant to KRS 164.7874 by January 15 following the end of the fall academic term in which the student completed the high school graduation requirements. The list shall identify the high school and shall contain each high school student's name, Social Security number, address, grade point average for the academic year, expected or actual graduation date, highest ACT score, family eligibility status for free or reduced-price lunch, and each AP or IB examination score. The Gatton Academy of Mathematics and Science in Kentucky shall report the data on its students to the authority. The list need not contain the ACT, AP, or IB if the authority receives the scores directly from the testing services. The authority shall notify each eligible high school student of his or her Kentucky educational excellence scholarship award earned each academic year. The authority shall determine the final Kentucky educational excellence scholarship and supplemental award based upon the actual final grade point average, highest ACT score, and qualifying AP or IB scores and shall notify each eligible twelfth-grade high school student of the final determination. The authority shall make available a list of eligible high school and postsecondary students to participating institutions.
- (2) The authority shall provide data access only to *the Kentucky Longitudinal Data System and to those* participating institutions that have either received an admission application from an eligible high school or postsecondary student or have been listed by the eligible high school or postsecondary student on the Free Application For Federal Student Aid.
- (3) For each eligible postsecondary student enrolling in a participating institution after July 1, 1999, the participating institution shall verify to the authority:
 - (a) The student's initial eligibility for a Kentucky educational excellence scholarship, Kentucky educational excellence scholarship and supplemental award, or supplemental award only pursuant to KRS 164.7879(3)(d) through the comprehensive list compiled by the authority or an alternative source satisfactory to the authority;
 - (b) The student's highest ACT score attained by the date of graduation from high school, provided that the participating institution need not report the ACT score if the authority receives the ACT score directly from the testing services;

- (c) The eligible postsecondary student's full-time or part-time enrollment status at the beginning of each academic term; and
 - (d) The eligible postsecondary student's cumulative grade point average after the completion of each award period.
- (4) Each participating institution shall submit to the authority a report, in a form satisfactory to the authority, of all eligible postsecondary students enrolled for that academic term. Kentucky educational excellence scholarships and supplemental awards shall be disbursed by the authority to each eligible postsecondary student attending a participating institution during the academic term within thirty (30) days after receiving a satisfactory report.
 - (5) The Kentucky educational excellence scholarship and the supplemental award shall not be reduced, except as provided in KRS 164.7881(4).
 - (6) Kentucky educational excellence scholarships and supplemental awards shall not be awarded or disbursed to any eligible postsecondary students who are:
 - (a) In default on any loan under Title IV of the federal act; or
 - (b) Liable for any amounts that exceed annual or aggregate limits on any loan under Title IV of the federal act; or
 - (c) Liable for overpayment of any grant or loan under Title IV of the federal act; or
 - (d) In default on any obligation to the authority under any programs administered by the authority until financial obligations to the authority are satisfied, except that ineligibility may be waived by the authority for cause.
 - (7) Notwithstanding the provisions of KRS 164.753, the authority may promulgate administrative regulations for the administration of Kentucky educational excellence scholarships and supplemental awards under the provisions of KRS 164.7871 to 164.7885 and KRS 164.7889.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) *The Council for Educational Research is hereby established.*
- (2) *At least once each year, the council shall advise the Board of the Kentucky Center for Education and Workforce Statistics and the Office for Education and Workforce Statistics on the data needed by colleges of education for conducting education research.*
- (3) *The chief research officer at each research university and the deans of the colleges of education at each comprehensive university shall serve on the council or appoint a designee from the research faculty in the college of education.*

➔Section 8. The General Assembly confirms Executive Order 2012-1029, dated December 14, 2012, to the extent it is not otherwise confirmed or superseded by this Act.

Signed by Governor March 19, 2013.

CHAPTER 19

(SB 84)

AN ACT relating to persons transporting prisoners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 71.065 is amended to read as follows:

- (1) If in any county there is no jail *and the jailer does not serve as a transportation officer under KRS 441.510*, KRS 71.060 shall not be applicable and the jailer shall not be entitled to nor shall he appoint any jail personnel.
- (2) *If in any county there is no jail and the jailer serves as a transportation officer under KRS 441.510, the county judge/executive, with the approval of the fiscal court, may employ one (1) or more persons to act as*

additional transportation officers to assist the jailer in his or her duties. These additional transportation officers shall perform their duties under the supervision of the jailer, and the jailer shall be liable on his or her official bond for the conduct of these officers. Persons other than the jailer employed as transportation officers under this section or KRS 441.510 shall have all the authority and power of peace officers only while transporting prisoners and acting in capacities entailing the maintenance of custody of prisoners.

Signed by Governor March 19, 2013.

CHAPTER 20

(SB 98)

AN ACT relating to county law libraries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 172.200 is amended to read as follows:

- (1) Upon the adoption of this optional plan, in counties other than those containing a city of the first class or consolidated local government, the Circuit Judge shall appoint one (1) member of the county's bar, and the members of the county's bar shall, by majority vote, elect another of their number, which two (2) attorneys shall, with the county attorney of the county, constitute and be designated as "Trustees, County Law Library." In counties containing a city of the first class or consolidated local government, the Chief Circuit Judge shall appoint one (1) member of the county's bar; the members of the county's bar shall, by majority vote, elect another of their number; the fiscal court or consolidated local government pursuant to the provisions of KRS 67C.139 shall appoint one (1) member, and one (1) member shall be appointed by the Commonwealth's attorney, which four (4) attorneys shall, with the county attorney of the county, constitute and be designated as "Trustees, County Law Library" or in a county containing a consolidated local government, "Trustees,/.....County Law Library," which shall be a combination of the names of the largest city in existence on the date of the approval of the consolidated local government and the county.
- (2) The trustees shall serve for a term of two (2) years or until their successors are elected or qualified.
- (3) The trustees shall be in charge of the county law library, and they shall make purchases of the various state and federal case reports, textbooks, legal encyclopedia, and all other books *or equipment* usually incident to or customarily found in law libraries, or necessary to the protection of the rights of litigants, and they shall cause same to be properly arranged in the county law library *or Court of Justice facilities*, directing the ex officio librarian in the exercise of his duties. The trustees may also provide on-line legal resources for the use of library patrons.
- (4) The trustees shall exercise their absolute discretion in the purchase of books, pamphlets, periodicals, and other materials *and equipment*, and in the appointment and compensation of personnel to assist the ex officio librarian in the handling of materials and in the maintenance of the library, but the trustees shall not contract for any such purchases and appointments so as to create an indebtedness greater than the anticipated revenue for the following eighteen (18) months, the anticipated revenue being based upon the preceding eighteen (18) months' revenue, and any indebtedness of the county law library fund shall not be considered in any way an indebtedness of the county, but shall be an indebtedness of the county law library fund only, and all creditors must look only to the county law library fund for satisfaction of their indebtedness.
- (5) The trustees shall designate one (1) of their number as treasurer and he shall be accountable for the receipt, deposit, and disbursement of all sums received for the operation of the county law library. He shall be bonded by a corporate bond, the cost of which shall be paid out of the receipts of the library fund. He shall deposit all sums received by him as treasurer in a regular banking depository, and he shall pay for all purchases made by the trustees by check or draft, keeping a true and accurate account of all sums received and expended by him. He shall annually file a written report with the Circuit Judge of the county showing all sums received by him, together with the court from which they were received, and an itemized statement of all expenditures made by him. The treasurer shall turn all funds over to his successor, together with a full inventory of the county law library, and together with a full and complete itemized statement of all outstanding accounts.

Signed by Governor March 19, 2013.

CHAPTER 21**(SB 114)**

AN ACT relating to commercial driver's licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 281A.010 is amended to read as follows:

- (1) "Alcohol" means:
 - (a) Beer, ale, port, or stout and other similar fermented beverages, including sake or similar products, of any name or description containing one-half of one percentum (0.5%) or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;
 - (b) Wine of not less than one-half of one percentum (0.5%) of alcohol by volume;
 - (c) Distilled spirits, which means that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced; or
 - (d) Any substance containing ethyl alcohol, hydrated oxide of ethyl, spirit of wine, or any distilled spirits including but not limited to ethanol, methanol, propanol, and isopropanol.
- (2) "Alcohol concentration" means:
 - (a) The number of grams of alcohol per one hundred (100) milliliters of blood;
 - (b) The number of grams of alcohol per two hundred ten (210) liters of breath; or
 - (c) The number of grams of alcohol per sixty-seven (67) milliliters of urine.
- (3) "Cabinet" means the Transportation Cabinet of the Commonwealth of Kentucky.
- (4) "Commerce" means:
 - (a) Any trade, traffic, or transportation within the jurisdiction of the United States between a place in a state and a place outside of the state, including a place outside of the United States; and
 - (b) Trade, traffic, and transportation in the United States that affects any trade, traffic, and transportation described in paragraph (a) of this subsection.
- (5) "Commercial driver's license," or "CDL," means a license issued to an individual in accordance with the requirements of this chapter or, if the license is issued by another state in accordance with the Federal Commercial Motor Vehicle Safety Act, to an individual that authorizes the individual to drive any class of commercial motor vehicle.
- (6) "Commercial driver's license information system" or CDLIS means the national information system established to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.
- (7) "Commercial driver's instruction permit" means a permit issued pursuant to KRS 281A.120.
- (8) "Commercial motor vehicle," or "CMV," means a motor vehicle or combination motor vehicle used in commerce that is:
 - (a) Designed to carry property and has a gross vehicle weight rating as determined by federal regulation which has been adopted into cabinet administrative regulations pursuant to KRS Chapter 13A;
 - (b) Designed to transport sixteen (16) or more passengers, including the driver;
 - (c) Transporting hazardous materials and is required to be placarded in accordance with Title 49, Code of Federal Regulations, Part 172; or
 - (d) Any other vehicle that is required by cabinet administrative regulation, pursuant to KRS Chapter 13A, to be operated by a licensed commercial driver.

- (9) "Controlled substance" means any substance so classified under Section 102(6) of the Controlled Substances Act, 21 U.S.C. sec. 802(6), and includes all substances listed on Schedules I through V, of Title 21, Code of Federal Regulations, Part 1308, as adopted by the Transportation Cabinet by administrative regulation pursuant to KRS Chapter 13A. It shall also include those substances defined or listed in KRS Chapter 218A.
- (10) "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty, a plea of nolo contendere, or Alford plea entered and accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.
- (11) "Disqualification" means any of the following actions:
- (a) The suspension, revocation, or cancellation of a CDL by the Commonwealth or the jurisdiction of issuance;
 - (b) Any withdrawal of a person's privilege to drive a commercial motor vehicle by the Commonwealth or another jurisdiction as a result of a violation of state or local law relating to motor vehicle traffic control, other than parking, vehicle weight, or vehicle defect violations; or
 - (c) A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle under 49 C.F.R. pt. 391.
- (12) "Drive" means to drive, operate, or be in physical control of a motor vehicle.
- (13) "Driver" means any person who drives, operates, or is in physical control of a commercial motor vehicle, or who is required to hold a commercial driver's license.
- (14) "Driver's license" means a license issued by a state to an individual that authorizes the individual to drive a motor vehicle.
- (15) "Employee" means any operator of a commercial motor vehicle, including full-time, regularly employed drivers; casual, intermittent, or occasional drivers; leased drivers and independent, owner-operator contractors while in the course of operating a commercial motor vehicle who are either directly employed by, under lease to, or operating in a manner indicating employment to an employer.
- (16) "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.
- (17) "Felony" means any offense under state or federal law that is punishable by death or imprisonment for a term exceeding one (1) year.
- (18) "Gross combination weight rating," or "GCWR," is the gross vehicle weight rating of power unit plus the gross vehicle weight rating of any towed unit. In the absence of a value specified by the manufacturer, GCWR shall be determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed unit and load therein.
- (19) "Gross vehicle weight rating," or "GVWR," means the value specified by the manufacturer as the maximum loaded weight of a single, a combination or an articulated vehicle.
- (20) "Hazardous materials" *has the same meaning as in 49 C.F.R. sec. 383.5*~~means the definition found in Section 103 of the Hazardous Materials Transportation Law, 49 U.S.C. sec. 5101 et seq.~~
- (21) "Highway" shall include any way or place of any nature when any part of it is open to the use of the public as a matter of right, license, or privilege for the use of vehicular traffic.
- (22) "Imminent hazard" means a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a danger to health, property, or the environment exists.
- (23) "Moped" shall have the same meaning as in KRS 186.010(5).
- (24) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, or any other vehicle required to be registered under the laws of this state, but shall not include any vehicle, machine, tractor, trailer, or semitrailers operated exclusively on a rail.
- (25) "NDR" means the national driver register.

- (26) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a driver, commercial motor vehicle, or a motor carrier operation is out of service pursuant to 49 C.F.R. sec. 386.72, 392.5, 395.13, or 396.9; comparable laws or regulations; or the North American Uniform Out-of-Service Criteria.
- (27) "Resident" means a person who has established Kentucky as his or her state of domicile. Proof of residency shall include but not be limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement.
- (28) "School bus" means a vehicle that meets the specification of KRS 156.153 used to transport preprimary, primary, or secondary school students between school and home, or to and from school-sponsored events. A school bus shall not include a bus used as a common carrier.
- (29) "Serious traffic violation" means a conviction when operating a commercial motor vehicle of:
- (a) Excessive speeding, involving a single charge of any speed fifteen (15) miles per hour or more, above the specified speed limit;
 - (b) Reckless driving, as defined under state or local law, including conviction of driving a commercial motor vehicle in willful or wanton disregard for the safety of persons or property;
 - (c) Improper or erratic traffic lane changes;
 - (d) Following the vehicle ahead too closely;
 - (e) A violation of any state or local law related to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident;
 - (f) Driving a commercial motor vehicle without a CDL;
 - (g) Driving a commercial motor vehicle without a CDL in one's possession or refusing to display a CDL upon request;
 - (h) Driving a commercial motor vehicle without the proper class of CDL or endorsements, or both, for the specific vehicle type or types being operated or for the passengers or type or types of cargo being transported; or
 - (i) Any conviction of an offense that requires mandatory suspension under KRS 186.560 or a serious violation as defined by Title 49 of the Code of Federal Regulations Part 383 or as amended by the Federal Highway Administration.
- (30) "State" means a state of the United States and the District of Columbia.
- (31) "State police" means the Department of Kentucky State Police.
- (32) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn along a public highway, except devices moved by human or animal power, used exclusively upon stationary rails or tracks, or which derives its power from overhead wires.

➔Section 2. KRS 189.560 is amended to read as follows:

- (1) The operator of a vehicle shall stop and remain standing at a railroad grade crossing when any of the following conditions exist:
- (a) A visible electric or mechanical signal device warns of the immediate approach of a railroad train;
 - (b) A crossing gate is lowered warning of the immediate approach or passage of a railroad train;
 - (c) An approaching train is visible and in hazardous proximity; or
 - (d) A human flagman signals the approach or passage of a train.
- (2) ***In addition to subsection (1) of this section, a person who holds or is required to hold a CDL as defined in KRS 281A.010 and is driving a commercial motor vehicle shall:***
- (a) ***Slow down and check that the railroad tracks are clear of an approaching train;***
 - (b) ***Stop and remain standing at a railroad grade crossing if the railroad tracks are not clear;***
 - (c) ***Maintain sufficient space to drive completely through the railroad grade crossing without stopping; and***

(d) Negotiate a railroad grade crossing only with sufficient undercarriage clearance.

- (3) Whenever the tracks of any railroad or interurban railway over which trains or cars are regularly operated cross a state maintained highway at grade, the cabinet may designate that crossing as "unsafe," and no operator of any vehicle shall cross the crossing without first bringing his vehicle to a full stop no closer than a marked stop line or fifteen (15) feet, nor more than thirty (30) feet, from the nearest rail of the tracks.
- ~~(4)(3)~~ At crossings designated "unsafe," the cabinet shall place and maintain on each side of the tracks on the right side of the highway, at the marked stopping position, or, if the stopping position is not marked, on the pavement not more than twenty-five (25) feet in advance of the track, an octagonal shape sign of a type and size currently approved for use by the cabinet bearing the word "Stop" in white letters not less than ten (10) inches in height.
- ~~(5)(4)~~ The cabinet shall install the signs described in subsection (3), within sixty (60) days after the crossing is designated unsafe.
- ~~(6)(5)~~ Subsections ~~(3)(2)~~ to ~~(5)(4)~~ shall not apply to grade crossings at which have been constructed and maintained gates, electric warning signals, or other automatic audible signals, or which are protected by watchmen.
- ~~(7)(6)~~ The failure to observe subsections ~~(3)(2)~~ to ~~(6)(5)~~ shall not change the liability of any railroad or interurban railway in the trial of any civil case against the railroad or interurban railway for death or injuries, to person or property.
- ~~(8)(7)~~ If subsection ~~(7)(6)~~ is declared unconstitutional, then subsections ~~(3)(2)~~ to ~~(8)(7)~~ shall be ineffective.

➔Section 3. KRS 281A.170 is amended to read as follows:

- (1) The commercial driver's license shall be marked "commercial driver's license" and "CDL" and shall be, to the maximum extent practicable, tamper proof. It shall include but is not limited to the following information:
- The name and present resident address of the licensee;
 - The licensee's color photograph;
 - A physical description of the licensee including sex, height, weight, and eye color;
 - The licensee's date of birth;
 - The licensee's signature;
 - The class or type of commercial motor vehicle or vehicles that the person is authorized to drive together with any endorsements or restrictions;
 - The name of this state;
 - The dates between which the license is valid; and
 - Any other information required by the cabinet, except for a person's Social Security number.
- (2) A commercial driver's license shall be issued with classifications, endorsements, and restrictions. Vehicles that require an endorsement shall not be driven unless the proper endorsement appears on the license and the applicant has passed the knowledge and skills test required by the State Police.
- Classifications:
 - Class A - Any combination of vehicles with a gross vehicle weight rating of twenty-six thousand and one (26,001) pounds or more, if the gross vehicle weight rating of the vehicle being towed is in excess of ten thousand (10,000) pounds. Licensees with an "A" classification may with the proper endorsement drive Class B and C vehicles.
 - Class B - Any single vehicle with a gross vehicle weight rating of twenty-six thousand and one (26,001) pounds or more, and any vehicle towing a vehicle not in excess of ten thousand (10,000) pounds. Licensees with a "B" classification may with the proper endorsements drive Class C vehicles.
 - Class C - Any single vehicle with a gross weight rating of less than twenty-six thousand and one (26,001) pounds or any vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand (10,000) pounds which includes:

- a. Vehicles designed to transport sixteen (16) or more passengers, including the driver; or
 - b. Vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded under Title 49, Code of Federal Regulations, Part 172, sub-part F, as adopted by administrative regulations of the cabinet, pursuant to KRS Chapter 13A.
4. Class D - All other vehicles not listed in any other class.
 5. Class E - Moped only.
 6. Class M - Motorcycles. Licensees with a "M" classification may also drive Class E vehicles.
- (b) Endorsements:
1. "H" - Authorizes the driver to operate a vehicle transporting hazardous materials.
 2. "T" - Authorizes operation of double trailers and triple trailers in those jurisdictions allowing the operation of triple trailers.
 3. "P" - Authorizes operation of vehicles carrying passengers.
 4. "N" - Authorizes operation of tank vehicles.
 5. "X" - Authorizes operation of combination of hazardous materials and tank vehicle endorsements.
 6. "R" - Authorizes operation of all other endorsements not otherwise specified.
 7. "S" - Authorizes operation of school buses.
- (c) *The Transportation Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to outline restrictions on the operation of commercial vehicles and the associated codes to identify such restrictions, which shall appear on the face of the commercial driver's license.*~~Restrictions:~~
1. ~~"K" Restricts the driver to operation of vehicles not equipped with airbrakes.~~
 2. ~~"I" Restricts the driver to Kentucky intrastate commerce driving.~~
 3. ~~"L" Shall not include a Class "A" bus.~~
 4. ~~"J" Shall not include a Class "A" or "B" bus.~~
 5. ~~"O" Shall not include tractor, semitrailer style vehicles.~~
 6. ~~"Z" Exempt intracity zones for commercial vehicles.~~
 7. ~~"0-9" Other restrictions.~~
 8. ~~"A" Restricts the driver to operation of vehicles equipped with an automatic transmission because the person conducted the required skills test in a commercial vehicle equipped with an automatic transmission. A person wanting to remove this restriction in order to operate a vehicle with a manual transmission shall be required to successfully complete a skills test while operating a commercial vehicle equipped with a manual transmission.~~
- (3) Within ten (10) days after issuing a commercial driver's license, the cabinet shall notify the commercial driver's license information system of that fact, providing all information required to ensure identification of the person.
 - (4) A commercial driver's license issued to a resident pursuant to this chapter shall expire in four (4) years unless the license was issued to a resident under the age of twenty-one (21). A commercial driver's license issued to a person who is not a resident shall be issued for one (1) year and shall not be renewable. The fee for a commercial driver's license issued to a nonresident shall be the same as the fee charged to a resident.
 - (5) A person under the age of twenty-one (21) shall not be licensed to operate a Class A, B, or C vehicle unless he has an "I" restriction. A commercial driver with an "I" restriction shall not drive a commercial motor vehicle in interstate commerce, unless he is exempt pursuant to 49 C.F.R. 391.2. A commercial driver under the age of twenty-one (21) shall not be allowed to operate a school bus or a vehicle transporting hazardous material in intrastate commerce.

- (6) The holder of a commercial driver's license shall be considered to hold a valid Kentucky driver's license issued under the provisions of KRS 186.412.

➔Section 4. KRS 189.990 is amended to read as follows:

- (1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsection (1) or (4) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, KRS 189.450 to 189.458, KRS 189.4595 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.590, except subsection (1)(b) or (6)(b) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense. Any person who violates subsection (1)(a) of KRS 189.580 shall be fined not less than twenty dollars (\$20) nor more than two thousand dollars (\$2,000) or imprisoned in the county jail for not more than one (1) year, or both, unless the accident involved death or serious physical injury and the person knew or should have known of the death or serious physical injury, in which case the person shall be guilty of a Class D felony. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars (\$11) nor more than thirty dollars (\$30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.
- (2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents (\$0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents (\$0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars (\$100) and shall not be more than five hundred dollars (\$500).
- (b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars (\$100); otherwise, the penalties in paragraph (a) of this subsection shall apply.
- (c) Any person who violates any provision of subsection (2) or (3) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500).
- (d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.
- (3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars (\$15).
- (b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars (\$35) nor more than two hundred dollars (\$200).
- (4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
- (b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
- (c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.
- (5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars (\$300) nor more than five hundred dollars (\$500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

- (6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars (\$15) in excess of the cost of the repair of the road.
- (7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars (\$20) nor more than fifty dollars (\$50).
- (8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).
- (9)
 - (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.
 - (b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).
- (10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.
- (11) Any person who violates subsection ~~(3)~~~~(2)~~ of KRS 189.560 shall be fined not less than thirty dollars (\$30) nor more than one hundred dollars (\$100) for each offense.
- (12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.
- (13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.
- (14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars (\$20) nor more than twenty-five dollars (\$25).
- (15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.
- (16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars (\$100) and, upon subsequent convictions, be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned for thirty (30) days, or both.
- (17)
 - (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.
 - (b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). Each violation shall constitute a separate offense.
- (18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.
- (19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.
- (20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.
- (21) A person who operates a bicycle in violation of the administrative regulations promulgated pursuant to KRS 189.287 shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100).
- (22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.
- (23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars (\$25) nor more than three hundred dollars (\$300).
- (24) Any person who violates the provisions of KRS 189.125(3)(a) shall be fined fifty dollars (\$50). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs pursuant to

KRS 24A.175, additional court costs pursuant to KRS 24A.176, the fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs.

- (25) Any person who violates the provisions of KRS 189.125(3)(b) shall not be issued a uniform citation, but shall instead receive a courtesy warning up until July 1, 2009. For a violation on or after July 1, 2009, the person shall be fined thirty dollars (\$30). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, a fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs. A person who has not been previously charged with a violation of KRS 189.125(3)(b) may elect to acquire a booster seat meeting the requirements of KRS 189.125. Upon presentation of sufficient proof of the acquisition, the charge shall be dismissed and no fees or costs shall be imposed.
- (26) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars (\$25). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, the fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs.
- (27) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.
- (28) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:
- (a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and
 - (b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.
- (29) A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall be fined two hundred fifty dollars (\$250). The fines and costs for a violation of subsection (2) or (3) of KRS 189.459 shall be collected and disposed of in accordance with KRS 24A.180. Once deposited into the State Treasury, ninety percent (90%) of the fine collected under this subsection shall immediately be forwarded to the personal care assistance program under KRS 205.900 to 205.920. Ten percent (10%) of the fine collected under this subsection shall annually be returned to the county where the violation occurred and distributed equally to all law enforcement agencies within the county.
- (30) (a) Prior to January 1, 2011, any person who violates KRS 189.292 or 189.294 shall not be issued a uniform citation, but shall instead receive a courtesy warning.
- (b) On or after January 1, 2011, any person who violates KRS 189.292 or 189.294 shall be fined twenty-five dollars (\$25) for the first offense and fifty dollars (\$50) for each subsequent offense.

➔Section 5. KRS 281A.175 is amended to read as follows:

- (1) An applicant for a school bus endorsement shall satisfy the following requirements:
- (a) Qualify for a passenger vehicle endorsement by passing the knowledge and skills test for obtaining a passenger vehicle endorsement;
 - (b) Demonstrate knowledge of loading and unloading children, including the safe operation of stop signal devices, external mirror systems, flashing lights, and other warning and safety devices required for school buses by state or federal law or regulation;
 - (c) Demonstrate knowledge of emergency exits and procedures for safely evacuating passengers in an emergency; ~~and~~
 - (d) Demonstrate knowledge of state and federal laws and regulations related to safely traversing highway rail grade crossings; *and*
 - (e) ***Submit to an annual physical examination in accordance with 49 C.F.R. pt. 391, completed by a medical examiner as defined by 49 C.F.R. pt. 390.***
- (2) An applicant for a school bus endorsement shall take a driving skills test in a school bus of the same vehicle group as the school bus the applicant will drive.

- ~~{(3) Prior to October 1, 2005, the driving skills test required for an applicant for a school bus endorsement may be waived by the cabinet for an applicant who:~~
- ~~(a) Is currently licensed;~~
 - ~~(b) Has experience driving a school bus;~~
 - ~~(c) Has a good driving record;~~
 - ~~(d) Certifies and has state verification that, during the two (2) year period immediately prior to applying for a school bus endorsement, the applicant:

 - ~~1. Held a valid commercial driver's license with a passenger vehicle endorsement to operate a school bus representative of the group of bus the applicant will be driving;~~
 - ~~2. Has not had his or her operator's license or commercial driver's license suspended, revoked, or canceled, or been disqualified from operating a commercial motor vehicle;~~
 - ~~3. Has not been convicted of any of the disqualifying offenses in 49 C.F.R. sec. 383.51(b) while operating a commercial motor vehicle, or of any offense in a noncommercial vehicle that would be disqualifying under 49 C.F.R. sec. 383.51(b) if committed in a commercial motor vehicle;~~
 - ~~4. Has not had more than one (1) conviction of any of the serious traffic violations defined in 49 C.F.R. sec. 383.5 while operating any type of motor vehicle;~~
 - ~~5. Has not had any conviction for a violation of state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with a traffic accident;~~
 - ~~6. Has not been convicted of any motor vehicle traffic violation that resulted in an accident; and~~
 - ~~7. Has been regularly employed as a school bus driver, has operated a school bus representative of the group the applicant seeks to drive, and provides evidence of such employment.~~~~
- ~~(4) On and after October 1, 2005, all applicants for a school bus endorsement shall be required to take a driving skills test.]~~

Signed by Governor March 19, 2013.

CHAPTER 22

(SB 120)

AN ACT relating to police officers of public institutions of postsecondary education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 61.315 is amended to read as follows:

- (1) As used in this section, "police officer" means every paid police officer, sheriff, or deputy sheriff, corrections employee with the power of a peace officer pursuant to KRS 196.037, any metropolitan or urban-county correctional officer with the power of a peace officer pursuant to KRS 446.010, any jailer or deputy jailer, any auxiliary police officer appointed pursuant to KRS 95.445, ***any police officer of a public institution of postsecondary education appointed pursuant to Section 2 of this Act***, or any citation or safety officer appointed pursuant to KRS 83A.087 and 83A.088, elected to office, or employed by any county, airport board created pursuant to KRS Chapter 183, city, or by the state; "firefighter" means every paid firefighter or volunteer firefighter who is employed by or volunteers his or her services to the state, airport board created pursuant to KRS Chapter 183, any county, city, fire district, or any other organized fire department recognized, pursuant to KRS 95A.262, as a fire department operated and maintained on a nonprofit basis in the interest of the health and safety of the inhabitants of the Commonwealth and shall include qualified civilian firefighters employed at Kentucky-based military installations.
- (2) The spouse of any police officer, sheriff, deputy sheriff, corrections employee with the power of a peace officer pursuant to KRS 196.037, any metropolitan or urban-county correctional officer with the power of a peace officer pursuant to KRS 446.010, any jailer or deputy jailer, any auxiliary police officer appointed

pursuant to KRS 95.445, *any police officer of a public institution of postsecondary education appointed pursuant to Section 2 of this Act*, or any citation or safety officer appointed pursuant to KRS 83A.087 and 83A.088, firefighter, or member of the Kentucky National Guard on state active duty pursuant to KRS 38.030, or a member of a state National Guard or a Reserve component on federal active duty under Title 10 or 32 of the United States Code who names Kentucky as home of record for military purposes, whose death occurs on or after July 1, 2002, as a direct result of an act in the line of duty shall receive a lump-sum payment of eighty thousand dollars (\$80,000) if there are no surviving children, which sum shall be paid by the State Treasurer from the general expenditure fund of the State Treasury. If there are surviving children and a surviving spouse, the payment shall be apportioned equally among the surviving children and the spouse. If there is no surviving spouse, the payment shall be made to the surviving children, eighteen (18) or more years of age. For surviving children less than eighteen (18) years of age, the State Treasurer shall:

- (a) Pay thirty-five thousand dollars (\$35,000) to the surviving children; and
- (b) Hold forty-five thousand dollars (\$45,000) in trust divided into equal accounts at appropriate interest rates for each surviving child until the child reaches the age of eighteen (18) years.

If a child dies before reaching the age of eighteen (18) years, his or her account shall be paid to his or her estate. If there are no surviving children, the payment shall be made to any parents of the deceased.

- (3) The Commission on Fire Protection Personnel Standards and Education shall be authorized to promulgate administrative regulations establishing criteria and procedures applicable to the administration of this section as it pertains to both paid and volunteer firefighters, including but not limited to defining when a firefighter has died in line of duty. Administrative hearings promulgated by administrative regulation under authority of this subsection shall be conducted in accordance with KRS Chapter 13B.
- (4) The Justice and Public Safety Cabinet may promulgate administrative regulations establishing criteria and procedures applicable to the administration of this section as it pertains to police officers, any metropolitan or urban-county correctional officers with the power of a peace officer pursuant to KRS 446.010, or any jailers or deputy jailers, including but not limited to defining when one has died in line of duty. Administrative hearings promulgated by administrative regulation under authority of this subsection shall be conducted in accordance with KRS Chapter 13B.
- (5) The Department of Corrections shall promulgate administrative regulations establishing the criteria and procedures applicable to the administration of this section as it pertains to correctional employees, including but not limited to defining which employees qualify for coverage and which circumstances constitute death in the line of duty.
- (6) The estate of anyone whose spouse or surviving children would be eligible for benefits under subsection (2) of this section, and the estate of any regular member of the United States Armed Forces who names Kentucky as home of record for military purposes whose death occurs as a direct result of an act in the line of duty, shall be exempt from all probate fees, including but not limited to those established by the Supreme Court of Kentucky pursuant to KRS 23A.200 and 24A.170, or imposed under KRS 24A.185, 64.012, and 172.180.
- (7) The benefits payable under this section shall be in addition to any benefits now or hereafter prescribed under any police, sheriff, firefighter's, volunteer firefighter's, or National Guard or Reserve retirement or benefit fund established by the federal government or by any state, county, or any municipality.
- (8) Any funds appropriated for the purpose of paying the death benefits described in subsection (2) of this section shall be allotted to a self-insuring account. These funds shall not be used for the purpose of purchasing insurance.

➔Section 2. KRS 164.950 is amended to read as follows:

The governing board of each public institution of *postsecondary*~~higher~~ education is authorized to establish a *police*~~safety and security~~ department and appoint *police*~~safety and security~~ officers and other employees for the university, college, or other institution of public *postsecondary*~~higher~~ education for which it is responsible, to prescribe distinctive uniforms for the *police*~~safety and security~~ officers of said institution, and to designate and operate emergency vehicles. *Police*~~Safety and security~~ officers so appointed shall take an appropriate oath of office, in the form and manner consistent with the Constitution of Kentucky, and shall serve at the pleasure of the governing board.

➔Section 3. KRS 164.955 is amended to read as follows:

- (1) ~~Police~~~~[Safety and security]~~ officers so appointed shall be peace officers and conservators of the peace. They shall have general police powers including the power to arrest, without process, all persons who within their view commit any crime or misdemeanor. They shall possess all of the common law and statutory powers, privileges, and immunities of sheriffs, except that they shall be empowered to serve civil process to the extent authorized by the employing governing board of the respective *public postsecondary education* institution employing them. Without limiting the generality of the foregoing, such ~~police~~~~[safety and security]~~ officers are hereby specifically authorized and empowered, and it shall be their duty:
- (a) To preserve the peace, maintain order and prevent unlawful use of force or violence or other unlawful conduct on the campuses of their respective institutions, and to protect all persons and property located thereon from injury, harm and damage; and
 - (b) To enforce, and to assist the officials of their respective institutions in the enforcement of, the lawful rules and regulations of said institution, and to assist and cooperate with other law enforcement agencies and officers. Provided, however, that such ~~police~~~~[safety and security]~~ officers shall exercise the powers herein granted upon any real property owned or occupied by their respective institutions, including the streets passing through and adjacent thereto. Said powers may be exercised in any county of the Commonwealth where the institution owns, uses, or occupies property. Additional jurisdiction may be established by agreement with the chief of police of the municipality or sheriff of the county or the appropriate law enforcement agency in which such property is located, dependent upon the jurisdiction involved.
- (2) ~~Police~~~~[Safety and security]~~ officers may exercise their powers away from the locations described in subsection (1) of this section only upon the following conditions:
- (a) When in ~~immediate~~~~[hot]~~ pursuit of an actual or suspected violator of the law;~~[or]~~
 - (b) When authorized to do so pursuant to the agreement authorized by subsection (1) of this section;~~[or]~~
 - (c) When requested to act by the chief of police of the city or county in which the institution's property is located;~~[or]~~
 - (d) When requested to act by the sheriff of the county in which the institution's property is located;~~[or]~~
 - (e) When requested to act by the commissioner of the Department of Kentucky State Police;~~[or]~~
 - (f) When requested to act by the authorized delegates of those persons or agencies listed in paragraph (c), (d) or (e) above;~~[or]~~
 - (g) When requested to assist a state, county or municipal police officer, sheriff, or other peace officer in the performance of his lawful duties; or
 - (h) When operating under an interlocal cooperation agreement pursuant to KRS Chapter 65.
- (3) ~~Police~~~~[Safety and security]~~ officers appointed pursuant to KRS 164.950 to 164.980 shall have, in addition to the other powers enumerated herein, the power to conduct investigations anywhere in this Commonwealth, provided ~~the~~~~[such]~~ investigation relates to criminal offenses which occurred on property owned, leased, or controlled by the *public postsecondary education institution*~~[university]~~. Where desirable and at the discretion of the *public postsecondary education institution's*~~[institution of higher education's]~~ police officials, the *institution's police*~~[university safety and security]~~ department may coordinate said investigations with any law enforcement agency of this Commonwealth or with agencies of the federal government.
- (4) ~~Police~~~~[Safety and security]~~ departments created and operated by the governing boards of public *postsecondary education* institutions~~[of higher education]~~ shall, for all purposes, be deemed public police departments and the sworn ~~police~~~~[safety and security]~~ officers thereof are, for all purposes, deemed public police officers.
- (5) Nothing in KRS 164.950 to 164.980 shall be construed as a diminution or modification of the authority or responsibility of any city or county police department, the Department of Kentucky State Police, sheriff, constable, or other peace officer either on the property of an institution of *postsecondary*~~[higher]~~ education or otherwise.

➔Section 4. KRS 164.960 is amended to read as follows:

All persons appointed as ~~police~~~~[safety and security]~~ officers pursuant to KRS 164.950 to 164.980 shall, at the time of their employment~~[, be]~~:

- (1)~~[~~Not less than eighteen (18) years of age; and

(2) Comply with the requirements of KRS 61.300~~[, other than the age requirement]~~; and

(2)(3) ~~Possess~~~~[Shall possess]~~ whatever other requirements as may be set by the governing board of the institution of public *postsecondary*~~[higher]~~ education which employs them.

➔Section 5. KRS 164.965 is amended to read as follows:

The governing board of each institution of public *postsecondary*~~[higher]~~ education may provide for the appointment or promotion to the ranks and grades and positions of the department such officers and civilians as are considered by the board to be necessary for the efficient administration of the department. Such officers and civilians shall receive such compensation as shall be fixed and paid by the board.

➔Section 6. KRS 164.970 is amended to read as follows:

- (1) Vehicles used for emergency purposes by the *police*~~[safety and security]~~ department of a public institution of *postsecondary*~~[higher]~~ education shall be considered as emergency vehicles and shall be equipped with blue lights and sirens and shall be operated in conformance with the requirements of KRS Chapter 189.
- (2) *Police*~~[Safety and security]~~ officers directly employed by the governing board of public institutions of *postsecondary*~~[higher]~~ education pursuant to KRS 164.950 to 164.980 shall have the rights accorded to peace officers in cities of the first four (4) classes provided under KRS 527.020, provided the governing board of the public institution of *postsecondary*~~[higher]~~ education so *authorizes*~~[authorized]~~ in writing.
- (3) *Police*~~[Safety and security]~~ departments of public institutions of *postsecondary*~~[higher]~~ education may install, maintain, and operate radio systems on police or other radio frequencies under licenses issued by the Federal Communications Commission, or its successor; KRS 432.570 to the contrary notwithstanding.
- (4) *Police*~~[Safety and security]~~ departments of public institutions of *postsecondary*~~[higher]~~ education shall comply with the requirements of the Kentucky Revised Statutes and the Justice and Public Safety Cabinet with regard to reporting of criminal and other statistics.

➔Section 7. KRS 164.975 is amended to read as follows:

- (1) The governing boards of public institutions of *postsecondary*~~[higher]~~ education, each having the power and authority to govern and control the method and purpose of use of property owned or occupied by their respective institution, including travel over such property, is each hereby confirmed in its authority to regulate the traffic and parking of motor vehicles, bicycles or other vehicles as well as the traffic of pedestrians on, over and across the streets, roads, paths and grounds of real property owned, used or occupied by such institution. Such regulations applicable to traffic and parking may include, but not be limited to, the following provisions:
 - (a) Provisions governing the registration, speed, operation, parking and times, places and manner of use of motor vehicles, bicycles and other vehicles.
 - (b) Provisions prescribing penalties for the violation of such regulations, which penalties may include the imposition of reasonable charges, the removing and impounding (at the expense of the violator) of vehicles which are operated or parked in violation of such regulations, and the denial of permission to operate vehicles on the property of such institution.
 - (c) Provisions establishing reasonable charges and fees for the registration of vehicles and for the use of parking spaces or facilities owned or occupied by such institution. Provided, however, that nothing herein contained shall be deemed to limit or restrict the powers of any other governmental authority having jurisdiction over public streets, roads, alleys or ways.
- (2) Motor vehicle moving violations of regulations issued under this section shall be deemed violations of the appropriate equivalent sections of the motor vehicle laws of the Commonwealth and may be prosecuted in the courts having territorial jurisdiction over the physical location of the offense.

➔Section 8. KRS 164.980 is amended to read as follows:

No person shall falsely represent himself to be a *police*~~[safety and security]~~ officer, agent or employee of a *police*~~[safety and security]~~ department of a public institution of *postsecondary*~~[higher]~~ education and in such assumed character, arrest, or detain, or search, or question, in any manner the person or property of any person, nor shall any person without the authority of the governing board of the public institution of *postsecondary*~~[higher]~~ education wear its official uniform, insignia, badge, or identification of the department.

➔Section 9. KRS 15.310 is amended to read as follows:

As used in KRS 15.315 to 15.510, 15.990, and 15.992, unless the context otherwise requires:

- (1) "Basic training course" means the peace officer or court security officer basic training course provided by the Department of Criminal Justice Training or a course approved and recognized by the Kentucky Law Enforcement Council;
- (2) "Certified court security officer" means a court security officer who is certified under KRS 15.380 to 15.404;
- (3) "Certified peace officer" means a peace officer who is certified under KRS 15.380 to 15.404;
- (4) "Certification" means the act by the council of issuing certification to a peace officer or court security officer who successfully completes the training requirements pursuant to KRS 15.404 and the requirements set forth within this chapter;
- (5) "Council" means the Kentucky Law Enforcement Council established by KRS 15.315 to 15.510, 15.990, and 15.992;
- (6) "Court security officer" means a person required to be certified under KRS 15.380(1)(c) and who is charged with the duties set out in KRS 70.280;
- (7) "Department" means the Department of Criminal Justice Training of the Justice and Public Safety Cabinet;
- (8) "Law enforcement officer" means a member of a lawfully organized police unit or police force of county, city or metropolitan government who is responsible for the detection of crime and the enforcement of the general criminal laws of the state, as well as sheriffs, sworn deputy sheriffs, campus ~~police~~~~security~~ officers, law enforcement support personnel, public airport authority security officers, other public and federal peace officers responsible for law enforcement, and special local peace officers licensed pursuant to KRS 61.360;
- (9) "Peace officer" means a person defined in KRS 446.010;
- (10) "Secretary" means the secretary of the Justice and Public Safety Cabinet; and
- (11) "Validated job task analysis" means the minimum entry level qualifications and training requirements for peace officers in the Commonwealth based upon an actual survey and study of police officer duties and responsibilities conducted by an entity recognized by the Kentucky Law Enforcement Council as being competent to conduct such a study.

➔Section 10. KRS 15.380 is amended to read as follows:

- (1) The following officers employed or appointed as full-time, part-time, or auxiliary officers, whether paid or unpaid, shall be certified:
 - (a) Department of Kentucky State Police officers, but for the commissioner of the Department of Kentucky State Police;
 - (b) City, county, and urban-county police officers;
 - (c) Court security officers and deputy sheriffs, except those identified in KRS 70.045 and 70.263(3);
 - (d) State or public university ~~police~~~~safety and security~~ officers appointed pursuant to KRS 164.950;
 - (e) School security officers employed by local boards of education who are special law enforcement officers appointed under KRS 61.902;
 - (f) Airport safety and security officers appointed under KRS 183.880;
 - (g) Department of Alcoholic Beverage Control field representatives and investigators appointed under KRS 241.090;
 - (h) Division of Insurance Fraud Investigation investigators appointed under KRS 304.47-040; and
 - (i) County detectives appointed in a county containing a consolidated local government with the power of arrest in the county and the right to execute process statewide in accordance with KRS 69.360.
- (2) The requirements of KRS 15.380 to 15.404 for certification may apply to all state peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be incorporated by the Personnel Cabinet for job specifications.
- (3) Additional training in excess of the standards set forth in KRS 15.380 to 15.404 for all peace officers possessing arrest powers who have specialized law enforcement responsibilities shall be the responsibility of the employing agency.

- (4) The following officers may, upon request of the employing agency, be certified by the council:
- (a) Deputy coroners;
 - (b) Deputy constables;
 - (c) Deputy jailers;
 - (d) Deputy sheriffs under KRS 70.045 and 70.263(3);
 - (e) Officers appointed under KRS 61.360;
 - (f) Officers appointed under KRS 61.902, except those who are school security officers employed by local boards of education;
 - (g) Private security officers;
 - (h) Employees of a correctional services division created pursuant to KRS 67A.028 and employees of a metropolitan correctional services department created pursuant to KRS 67B.010 to 67B.080; and
 - (i) Investigators employed by the Department of Charitable Gaming in accordance with KRS 238.510; and
 - (j) Commonwealth detectives employed under KRS 69.110 and county detectives employed under KRS 69.360.
- (5) The following officers shall be exempted from the certification requirements but may upon their request be certified by the council:
- (a) Sheriffs;
 - (b) Coroners;
 - (c) Constables;
 - (d) Jailers;
 - (e) Kentucky Horse Racing Commission security officers employed under KRS 230.240; and
 - (f) Commissioner of the State Police.
- (6) Federal peace officers cannot be certified under KRS 15.380 to 15.404.

Signed by Governor March 19, 2013.

CHAPTER 23

(SCR 123)

A CONCURRENT RESOLUTION directing the staff of the Legislative Research Commission to study the technology, resources, and procedures necessary to notify the Division of Probation and Parole when a probationer or parolee has been arrested.

WHEREAS, currently in Kentucky, over 42,000 persons are on active supervision with the Division of Probation and Parole; and

WHEREAS, when a person serving probation or parole in this state is arrested, there is no automatic notification of the person's probation and parole officer; and

WHEREAS, under the division's current procedure, it is the responsibility of the person being supervised to report the arrest to his or her probation and parole officer; and

WHEREAS, other than self-reporting of arrests by probationers and parolees, the only official method for discovering a new arrest is through a records check performed by a probation and parole officer every 30 days on each person supervised; and

WHEREAS, it is in the public interest to ensure that probationers and parolees comply with the conditions of their probation and parole; and

WHEREAS, the immediate notification to the probation and parole officer of a supervisee's new arrest will further enhance public safety;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

➔Section 1. The staff of the Legislative Research Commission shall study:

(1) The current statutory, regulatory, and procedural barriers to immediate notification of the Division of Probation and Parole when supervisees are arrested;

(2) Alternative methods for notification and the associated costs of each method, including start-up and recurring costs;

(3) The necessary participation and cooperation of other appropriate agencies, jails, and the Administrative Office of the Courts in developing and implementing the notification system; and

(4) Any potential limitations to interagency cooperation in the implementation of immediate notification of an arrest to the Division of Probation and Parole.

➔Section 2. Staff shall transmit the results of the study to the Legislative Research Commission for distribution to the appropriate interim joint committee or committees by November 1, 2013.

➔Section 3. Provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof and to designate a study completion date.

Signed by Governor March 19, 2013.

CHAPTER 24

(SB 125)

AN ACT related to newborn screening for congenital heart disease.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 214.155 is amended to read as follows:

(1) The Cabinet for Health and Family Services shall operate a newborn screening program for heritable ***and congenital*** disorders that includes but is not limited to procedures for conducting initial newborn screening tests on infants twenty-eight (28) days or less of age and definitive diagnostic evaluations provided by a state university-based specialty clinic for infants whose initial screening tests resulted in a positive test. The secretary of the cabinet shall, by administrative regulation promulgated pursuant to KRS Chapter 13A:

(a) Prescribe the times and manner of obtaining a specimen and transferring a specimen for testing;

(b) Prescribe the manner of ***procedures***, testing specimens, and recording and reporting the results of newborn screening tests; and

(c) Establish and collect fees to support the newborn screening program.

(2) The administrative officer or other person in charge of each institution caring for infants twenty-eight (28) days or less of age and the person required in pursuance of the provisions of KRS 213.046 shall register the birth of a child and cause to have administered to every such infant or child in its or his care tests for heritable disorders, including but not limited to phenylketonuria (PKU), sickle cell disease, congenital hypothyroidism, galactosemia, medium-chain acyl-CoA dehydrogenase deficiency (MCAD), very long-chain acyl-CoA deficiency (VLCAD), short-chain acyl-CoA dehydrogenase deficiency (SCAD), maple syrup urine disease (MSUD), congenital adrenal hyperplasia (CAH), biotinidase disorder, and cystic fibrosis (CF), 3-methylcrotonyl-CoA carboxylase deficiency (3MCC), 3-OH 3-CH3 glutaric aciduria (HMG), argininosuccinic acidemia (ASA), beta-ketothiolase deficiency (BKT), carnitine uptake defect (CUD), citrullinemia (CIT), glutaric acidemia type I (GA I), Hb S/beta-thalassemia (Hb S/Th), Hb S/C disease (Hb S/C), homocystinuria

(HCY), isovaleric acidemia (IVA), long-chain L-3-OH acyl-CoA dehydrogenase deficiency (LCAD), methylmalonic acidemia (Cbl A,B), methylmalonic acidemia mutase deficiency (MUT), multiple carboxylase deficiency (MCD), propionic acidemia (PA), trifunctional protein deficiency (TFP), and tyrosinemia type I (TYR I). The listing of tests for heritable disorders to be performed shall include all conditions consistent with the recommendations of the American College of Medical Genetics.

- (3) *The administrative officer or other person in charge of each institution caring for infants twenty-eight (28) days or less of age and the person required in pursuance of the provisions of KRS 213.046 shall register the birth of a child and cause to have administered to every such infant or child in its or his care a screening for critical congenital heart disease (CCHD) prior to discharge unless CCHD has been ruled out or diagnosed with prior echocardiogram or prenatal diagnosis of CCHD.*
- (4) Each health care provider of newborn care shall provide an infant's parent or guardian with information about the newborn screening tests required under *subsections (2) and (3)*~~subsection (2)~~ of this section. The institution or health care provider shall arrange for appropriate and timely follow-ups to the newborn screening tests, including but not limited to additional diagnoses, evaluation, and treatment when indicated.
- ~~(5)(4)~~ Nothing in this section shall be construed to require the testing of any child whose parents are members of a nationally recognized and established church or religious denomination, the teachings of which are opposed to medical tests, and who object in writing to the testing of his or her child on that ground.
- ~~(6)(5)~~ The cabinet shall make available the names and addresses of health care providers, including but not limited to physicians, nurses, and nutritionists, who may provide postpartum home visits to any family whose infant or child has tested positive for a newborn screening test.
- ~~(7)(6)~~ A parent or guardian shall be provided information by the institution or health care provider of newborn care about the availability and costs of screening tests not specified in *subsections (2) and (3)*~~subsection (2)~~ of this section. The parent or guardian shall be responsible for costs relating to additional screening tests performed under this subsection, and these costs shall not be included in the fees established for the cabinet's newborn screening program under subsection (1) of this section. All positive results of additional screening of these tests shall be reported to the cabinet by the institution or health care provider.
- ~~(8)(7)~~ (a) For the purposes of this subsection, a qualified laboratory means a clinical laboratory not operated by the cabinet that is accredited pursuant to 42 U.S.C. sec. 263a, licensed to perform newborn screening testing in any state, and reports its screening results using normal pediatric reference ranges.
- (b) The cabinet shall enter into agreements with public or private qualified laboratories to perform newborn screening tests if the laboratory operated by the cabinet is unable to screen for a condition specified in subsection (2) of this section.
- (c) The cabinet may enter into agreements with public or private qualified laboratories to perform testing for conditions not specified in subsection (2) of this section. Any agreement entered into under this paragraph shall not preclude an institution or health care provider from conducting newborn screening tests for conditions not specified in *subsections (2) and (3)*~~subsection (2)~~ of this section by utilizing other public or private qualified laboratories.
- ~~(9)(8)~~ The secretary for health and family services or his or her designee shall apply for any federal funds or grants available through the Public Health Service Act and may solicit and accept private funds to expand, improve, or evaluate programs to provide screening, counseling, testing, or specialty services for newborns or children at risk for heritable disorders.
- ~~(10)(9)~~ This section shall be cited as the James William Lazzaro and Madison Leigh Heflin Newborn Screening Act.

➔Section 2. This Act takes effect January 1, 2014.

Signed by Governor March 19, 2013.

AN ACT relating to human trafficking and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

- (1) *In order to provide the most effective treatment for children who are victims of human trafficking, as defined in Section 7 of this Act, the cabinet shall:*
- (a) *Investigate a report alleging a child is a victim of human trafficking pursuant to subsection (3) of Section 2 of this Act;*
 - (b) *Provide or ensure the provision of appropriate treatment, housing, and services consistent with the status of the child as a victim of human trafficking; and*
 - (c) *Proceed in the case in accordance with applicable statutes governing cases involving dependency, neglect, or abuse regardless of whether the person believed to have caused the human trafficking of the child is a parent, guardian, or person exercising custodial control or supervision.*
- (2) *In order to effectuate the requirements of this section, the cabinet shall:*
- (a) *Consult with agencies serving victims of human trafficking to promulgate administrative regulations for the treatment of children who are reported to be victims of human trafficking as dependent, neglected, or abused children, including providing for appropriate screening, assessment, treatment, services, temporary and long-term placement of these children, training of staff, the designation of specific staff, and collaboration with service providers and law enforcement; and*
 - (b) *By November 1 of each year, beginning in 2013, submit to the Legislative Research Commission a comprehensive report detailing the number of reports the cabinet has received regarding child victims of human trafficking, the number of reports in which the cabinet has investigated and determined that a child is the victim of human trafficking, and the number of cases in which services were provided.*

➔Section 2. KRS 620.030 is amended to read as follows:

- (1) Any person who knows or has reasonable cause to believe that a child is dependent, neglected, or abused shall immediately cause an oral or written report to be made to a local law enforcement agency or the Department of Kentucky State Police; the cabinet or its designated representative; the Commonwealth's attorney or the county attorney; by telephone or otherwise. Any supervisor who receives from an employee a report of suspected dependency, neglect, or abuse shall promptly make a report to the proper authorities for investigation. If the cabinet receives a report of abuse or neglect allegedly committed by a person other than a parent, guardian, or person exercising custodial control or supervision, the cabinet shall refer the matter to the Commonwealth's attorney or the county attorney and the local law enforcement agency or the Department of Kentucky State Police. Nothing in this section shall relieve individuals of their obligations to report.
- (2) Any person, including but not limited to a physician, osteopathic physician, nurse, teacher, school personnel, social worker, coroner, medical examiner, child-caring personnel, resident, intern, chiropractor, dentist, optometrist, emergency medical technician, paramedic, health professional, mental health professional, peace officer, or any organization or agency for any of the above, who knows or has reasonable cause to believe that a child is dependent, neglected, or abused, regardless of whether the person believed to have caused the dependency, neglect, or abuse is a parent, guardian, person exercising custodial control or supervision, or another person, or who has attended such child as a part of his or her professional duties shall, if requested, in addition to the report required in subsection (1) *or* (3) of this section, file with the local law enforcement agency or the Department of Kentucky State Police or the Commonwealth's or county attorney, the cabinet or its designated representative within forty-eight (48) hours of the original report a written report containing:
- (a) The names and addresses of the child and his or her parents or other persons exercising custodial control or supervision;
 - (b) The child's age;
 - (c) The nature and extent of the child's alleged dependency, neglect, or abuse, including any previous charges of dependency, neglect, or abuse, to this child or his or her siblings;
 - (d) The name and address of the person allegedly responsible for the abuse or neglect; and

- (e) Any other information that the person making the report believes may be helpful in the furtherance of the purpose of this section.
- (3) ***Any person who knows or has reasonable cause to believe that a child is a victim of human trafficking as defined in Section 7 of this Act shall immediately cause an oral or written report to be made to a local law enforcement agency or the Department of Kentucky State Police; or the cabinet or its designated representative; or the Commonwealth's attorney or the county attorney; by telephone or otherwise. This subsection shall apply regardless of whether the person believed to have caused the human trafficking of the child is a parent, guardian, or person exercising custodial control or supervision.***
- (4) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding a dependent, neglected, or abused child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding a dependent, neglected, or abused child.
- ~~(5)(4)~~ The cabinet upon request shall receive from any agency of the state or any other agency, institution, or facility providing services to the child or his or her family, such cooperation, assistance, and information as will enable the cabinet to fulfill its responsibilities under KRS 620.030, 620.040, and 620.050.
- ~~(6)(5)~~ Any person who intentionally violates the provisions of this section shall be guilty of a:
- Class B misdemeanor for the first offense;
 - Class A misdemeanor for the second offense; and
 - Class D felony for each subsequent offense.

➔Section 3. KRS 620.040 is amended to read as follows:

- Upon receipt of a report alleging abuse or neglect by a parent, guardian, or person exercising custodial control or supervision, pursuant to KRS 620.030(1) or (2), ***or a report alleging a child is a victim of human trafficking pursuant to subsection (3) of Section 2 of this Act***, the recipient of the report shall immediately notify the cabinet or its designated representative, the local law enforcement agency or the Department of Kentucky State Police, and the Commonwealth's or county attorney of the receipt of the report unless they are the reporting source.
 - Based upon the allegation in the report, the cabinet shall immediately make an initial determination as to the risk of harm and immediate safety of the child. Based upon the level of risk determined, the cabinet shall investigate the allegation or accept the report for an assessment of family needs and, if appropriate, may provide or make referral to any community-based services necessary to reduce risk to the child and to provide family support. A report of sexual abuse ***or human trafficking of a child*** shall be considered high risk and shall not be referred to any other community agency.
 - The cabinet shall, within seventy-two (72) hours, exclusive of weekends and holidays, make a written report to the Commonwealth's or county attorney and the local enforcement agency or the Department of Kentucky State Police concerning the action that has been taken on the investigation.
 - If the report alleges abuse or neglect by someone other than a parent, guardian, or person exercising custodial control or supervision, ***or the human trafficking of a child***, the cabinet shall immediately notify the Commonwealth's or county attorney and the local law enforcement agency or the Department of Kentucky State Police.
- Upon receipt of a report alleging dependency pursuant to KRS 620.030(1) and (2), the recipient shall immediately notify the cabinet or its designated representative.
 - Based upon the allegation in the report, the cabinet shall immediately make an initial determination as to the risk of harm and immediate safety of the child. Based upon the level of risk, the cabinet shall investigate the allegation or accept the report for an assessment of family needs and, if appropriate, may provide or make referral to any community-based services necessary to reduce risk to the child and to provide family support. A report of sexual abuse ***or human trafficking of a child*** shall be considered high risk and shall not be referred to any other community agency.
 - The cabinet need not notify the local law enforcement agency or the Department of Kentucky State Police or county attorney or Commonwealth's attorney of reports made under this subsection ***unless the report involves the human trafficking of a child, in which case the notification shall be required.***

- (3) If the cabinet or its designated representative receives a report of abuse by a person other than a parent, guardian, or other person exercising custodial control or supervision of a child, it shall immediately notify the local law enforcement agency or the Department of Kentucky State Police and the Commonwealth's or county attorney of the receipt of the report and its contents, and they shall investigate the matter. The cabinet or its designated representative shall participate in an investigation of noncustodial physical abuse or neglect at the request of the local law enforcement agency or the Department of Kentucky State Police. The cabinet shall participate in all investigations of reported or suspected sexual abuse *or human trafficking* of a child.
- (4) School personnel or other persons listed in KRS 620.030(2) do not have the authority to conduct internal investigations in lieu of the official investigations outlined in this section.
- (5) (a) If, after receiving the report, the law enforcement officer, the cabinet, or its designated representative cannot gain admission to the location of the child, a search warrant shall be requested from, and may be issued by, the judge to the appropriate law enforcement official upon probable cause that the child is dependent, neglected, or abused. If, pursuant to a search under a warrant, a child is discovered and appears to be in imminent danger, the child may be removed by the law enforcement officer.
- (b) If a child who is in a hospital or under the immediate care of a physician appears to be in imminent danger if he or she is returned to the persons having custody of him or her, the physician or hospital administrator may hold the child without court order, provided that a request is made to the court for an emergency custody order at the earliest practicable time, not to exceed seventy-two (72) hours.
- (c) Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person exercising custodial control or supervision if there exist reasonable grounds for the officer to believe that the child is in danger of imminent death or serious physical injury, ~~or~~ is being sexually abused, *or is a victim of human trafficking* and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child. The officer or the person to whom the officer entrusts the child shall, within twelve (12) hours of taking the child into protective custody, request the court to issue an emergency custody order.
- (d) When a law enforcement officer, hospital administrator, or physician takes a child into custody without the consent of the parent or other person exercising custodial control or supervision, he or she shall provide written notice to the parent or other person stating the reasons for removal of the child. Failure of the parent or other person to receive notice shall not, by itself, be cause for civil or criminal liability.
- (6) To the extent practicable and when in the best interest of a child alleged to have been abused, interviews with the child shall be conducted at a children's advocacy center.
- (7) (a) One (1) or more multidisciplinary teams may be established in every county or group of contiguous counties.
- (b) Membership of the multidisciplinary team shall include but shall not be limited to social service workers employed by the Cabinet for Health and Family Services and law enforcement officers. Additional team members may include Commonwealth's and county attorneys, children's advocacy center staff, mental health professionals, medical professionals, victim advocates *including advocates for victims of human trafficking*, educators, and other related professionals, as deemed appropriate.
- (c) The multidisciplinary team ~~shall~~ *may* review child sexual abuse cases *and child human trafficking cases involving commercial sexual activity* referred by participating professionals, including those in which the alleged perpetrator does not have custodial control or supervision of the child or is not responsible for the child's welfare. The purpose of the multidisciplinary team shall be to review investigations, assess service delivery, and to facilitate efficient and appropriate disposition of cases through the criminal justice system.
- (d) The team shall hold regularly scheduled meetings if new reports of sexual abuse *or child human trafficking cases involving commercial sexual activity* are received or if active cases exist. At each meeting, each active case shall be presented and the agencies' responses assessed.
- (e) The multidisciplinary team shall provide an annual report to the public of nonidentifying case information to allow assessment of the processing and disposition of child sexual abuse cases *and child human trafficking cases involving commercial sexual activity*.
- (f) Multidisciplinary team members and anyone invited by the multidisciplinary team to participate in a meeting shall not divulge case information, including information regarding the identity of the victim or

source of the report. Team members and others attending meetings shall sign a confidentiality statement that is consistent with statutory prohibitions on disclosure of this information.

- (g) The multidisciplinary team shall, pursuant to KRS 431.600 and 431.660, develop a local protocol consistent with the model protocol issued by the Kentucky Multidisciplinary Commission on Child Sexual Abuse. The local team shall submit the protocol to the commission for review and approval.
- (h) The multidisciplinary team review of a case may include information from reports generated by agencies, organizations, or individuals that are responsible for investigation, prosecution, or treatment in the case, KRS 610.320 to KRS 610.340 notwithstanding.
- (i) To the extent practicable, multidisciplinary teams shall be staffed by the local children's advocacy center.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

(1) ***If, during the course of screening, assessing, or providing services to a child committed to or in the custody of the department, there is reasonable cause to believe that the child is a victim of human trafficking as defined in Section 7 of this Act, the department shall:***

- (a) ***File a report with the Cabinet for Health and Family Services pursuant to Section 2 of this Act;***
- (b) ***Notify the child's attorney that the child may be a victim of human trafficking; and***
- (c) ***If the child does not pose a threat to public safety, petition the court to transfer custody from the department to the Cabinet for Health and Family Services.***

(2) ***After consultation with agencies serving victims of human trafficking, the department shall promulgate administrative regulations for the treatment of child victims of human trafficking who are committed to or in the custody of the department and pose a threat to public safety but do not qualify to be in the custody of the Cabinet for Health and Family Services under paragraph (c) of subsection (1) of this section. The administrative regulations shall include provisions for appropriate screening, assessment, placement, treatment, and services for these children, the training of staff, and collaboration with service providers.***

➔Section 5. KRS 605.030 is amended to read as follows:

(1) A court-designated worker may:

- (a) Receive complaints;
- (b) Review complaints taken by peace officers;
- (c) Investigate complaints except neglect, abuse, and dependency;
- (d) ***Perform an initial screening for human trafficking as defined in Section 7 of this Act for referral to the cabinet for investigation as a case of dependency, neglect, or abuse;***
- (e) Dispose of complaints limited to a total of three (3) status or nonfelony complaints per child;
- (f)~~(e)~~ Administer oaths;
- (g)~~(f)~~ Issue summonses;
- (h)~~(g)~~ Issue subpoenas;
- (i)~~(h)~~ Make advisory dispositional recommendations and provide, within forty-eight (48) hours, exclusive of weekends and holidays, information concerning a child who has chosen to waive the investigation pursuant to KRS 610.100 for the use of the cabinet in placing the child;
- (j)~~(i)~~ Perform such duties as required by KRS Chapter 645; and
- (k)~~(j)~~ Perform such other functions related to activities of children as may be authorized or directed by the court.

(2) Upon the filing of a petition which initiates a formal court action in the interest of the child, the court-designated worker's involvement, with the exception of the activities defined in subsection (1)(i)~~(h)~~ of this section, shall cease.

(3) When a child is to be tried as an adult, the court-designated worker need not make dispositional recommendations.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 630 IS CREATED TO READ AS FOLLOWS:

If reasonable cause exists to believe the child is a victim of human trafficking, as defined in Section 7 of this Act, the child shall not be charged with or adjudicated guilty of a status offense related to conduct arising from the human trafficking of the child unless it is determined at a later time that the child was not a victim of human trafficking at the time of the offense.

➔Section 7. KRS 529.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

- (1) "Advancing prostitution" -- A person "advances prostitution" when acting other than as a prostitute or as a patron thereof, he *or she* knowingly causes or aids a person to engage in prostitution, procures or solicits patrons for prostitution, provides persons or premises for prostitution purposes, operates or assists in the operation of a house of prostitution or a prostitution enterprise, or engages in any conduct designed to institute, aid or facilitate an act or enterprise of prostitution;
- (2) "Commercial sexual activity" means prostitution, ***regardless of whether the trafficked person can be charged with prostitution***, participation in the production of obscene material as set out in KRS Chapter 531, or engaging in a sexually explicit performance;
- (3) "Forced labor or services" means labor or services that are performed or provided by another person and that are obtained through force, fraud, or coercion;
- (4) "Force, fraud, or coercion" may only be accomplished by the same means and methods as a person may be restrained under KRS 509.010;
- (5) "Human trafficking" refers to criminal activity whereby one (1) or more persons are subjected to engaging in:
 - (a) Forced labor or services; or
 - (b) Commercial sexual activity through the use of force, fraud, or coercion, except that if the trafficked person is under the age of eighteen (18), the commercial sexual activity need not involve force, fraud, or coercion;
- (6) ***"Human trafficking victims fund" is the fund created in Section 9 of this Act;***
- (7) "Labor" means work of economic or financial value;
- (8) ***"Minor" means a person under the age of eighteen (18) years;***
- (9) ~~{(7)}~~ "Profiting from prostitution" -- A person "profits from prostitution" when acting other than as a prostitute receiving compensation for personally rendered prostitution services, he *or she* knowingly accepts or receives or agrees to accept or receive money or other property pursuant to an agreement or understanding with any person whereby he *or she* participates or is to participate in proceeds of prostitution activity;
- ~~(10){(8)}~~ "Services" means an ongoing relationship between a person and the actor in which the person performs activities under the supervision of or for the benefit of the actor;
- ~~(11){(9)}~~ "Sexual conduct" means sexual intercourse or any act of sexual gratification involving the sex organs;~~{~~
~~and}~~
- ~~(12){(10)}~~ "Sexually explicit performance" means a performance of sexual conduct involving:
 - (a) Acts of masturbation, homosexuality, lesbianism, bestiality, sexual intercourse, or deviant sexual intercourse, actual or simulated;
 - (b) Physical contact with, or willful or intentional exhibition of, the genitals;
 - (c) Flagellation or excretion for the purpose of sexual stimulation or gratification; or
 - (d) The exposure, in an obscene manner, of the unclothed or apparently unclothed human male or female genitals, pubic area, or buttocks, or the female breast, whether or not subsequently obscured by a mark placed thereon, or otherwise altered, in any resulting motion picture, photograph, or other visual representation, exclusive of exposure portrayed in matter of a private, family nature not intended for distribution outside the family; ***and***
- (13) ***"Victim of human trafficking" is a person who has been subjected to human trafficking.***

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 529 IS CREATED TO READ AS FOLLOWS:

Any person convicted of an offense in KRS 529.100 or 529.110 shall be ordered to pay, in addition to any other fines, penalties, or applicable forfeitures, a human trafficking victims service fee of ten thousand dollars (\$10,000) to be remitted to the fund created in Section 9 of this Act.

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 529 IS CREATED TO READ AS FOLLOWS:

- (1) *The "human trafficking victims fund," referred to in this section as the "fund," is created as a separate revolving fund within the Justice and Public Safety Cabinet.*
- (2) *The fund shall consist of proceeds from assets seized and forfeited pursuant to Section 10 of this Act, proceeds from the fee in Section 8 of this Act, grants, contributions, appropriations, and any other moneys that may be made available for purposes of the fund.*
- (3) *Moneys in the fund shall be distributed to agencies serving victims of human trafficking, including but not limited to law enforcement agencies, prosecutorial agencies, and victim service agencies in accordance with procedures developed by the Justice and Public Safety Cabinet pursuant to administrative regulation. The administrative regulation shall require that the Cabinet for Health and Family Services receive adequate funding allocation under this subsection to meet the responsibilities imposed upon it to serve minor victims of human trafficking under Section 1 of this Act.*
- (4) *Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward into the succeeding fiscal year to be used for the purposes set forth in this section.*
- (5) *Any interest earnings on moneys in the fund shall become a part of the fund and shall not lapse to the general fund.*
- (6) *Moneys in the fund are hereby appropriated for the purposes set forth in this section.*

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 529 IS CREATED TO READ AS FOLLOWS:

- (1) *All property used in connection with or acquired as a result of a violation of KRS 529.100 or 529.110 shall be subject to forfeiture under the same terms, conditions, and defenses and using the same process as set out in KRS 218A.405 to 218A.460, with the exception of the distribution of proceeds, which shall be distributed as required in this section.*
- (2) *Proceeds from the assets seized and forfeited shall be distributed as follows:*
 - (a) *Fifty percent (50%) shall be paid to the human trafficking victims fund;*
 - (b) *Forty-two and one-half percent (42.5%) shall be paid to the law enforcement agency or agencies that seized the property, to be used for direct law enforcement purposes; and*
 - (c) *Seven and one-half percent (7.5%) shall be paid to the Office of the Attorney General or, in the alternative, to the Prosecutors Advisory Council for deposit on behalf of the Commonwealth's attorney or county attorney who has participated in the forfeiture proceeding, as determined by the court pursuant to subsection (9) of KRS 218A.420. Notwithstanding KRS Chapter 48, these funds shall be exempt from any state budget reduction acts.*

The moneys identified in this subsection are intended to supplement any funds otherwise appropriated to the recipient and shall not supplant other funding of any recipient.

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 529 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding Section 12 or 13 of this Act, if it is determined after a reasonable period of custody for investigative purposes, that the person suspected of prostitution or loitering for prostitution is under the age of eighteen (18), then the minor shall not be prosecuted for an offense under Section 12 or 13 of this Act.*
- (2) *A law enforcement officer who takes a minor into custody under subsection (1) of this section shall immediately make a report to the Cabinet for Health and Family Services pursuant to Section 2 of this Act. Pursuant to Section 3 of this Act, the officer may take the minor into protective custody.*
- (3) *The Cabinet for Health and Family Services shall commence an investigation into child dependency, neglect, or abuse pursuant to Section 1 of this Act.*

➔Section 12. KRS 529.020 is amended to read as follows:

- (1) *Except as provided in Section 11 of this Act, a person is guilty of prostitution when he engages or agrees or offers to engage in sexual conduct with another person in return for a fee.*

- (2) Prostitution is a Class B misdemeanor.

➔Section 13. KRS 529.080 is amended to read as follows:

- (1) ***Except as provided in Section 11 of this Act***, a person is guilty of loitering for prostitution purposes when he loiters or remains in a public place for the purpose of engaging or agreeing or offering to engage in prostitution.
- (2) Loitering for prostitution purposes is a:
- (a) Violation for the first offense;
 - (b) Class B misdemeanor for the second offense and for each subsequent offense.

➔Section 14. KRS 15.334 is amended to read as follows:

- (1) The Kentucky Law Enforcement Council shall approve mandatory training subjects to be taught to all students attending a law enforcement basic training course that include but are not limited to:
- (a) Abuse, neglect, and exploitation of the elderly and other crimes against the elderly, including the use of multidisciplinary teams in the investigation and prosecution of crimes against the elderly;
 - (b) The dynamics of domestic violence, pediatric abusive head trauma, as defined in KRS 620.020, child physical and sexual abuse, and rape; child development; the effects of abuse and crime on adult and child victims, including the impact of abuse and violence on child development; legal remedies for protection; lethality and risk issues; profiles of offenders and offender treatment; model protocols for addressing domestic violence, rape, pediatric abusive head trauma, as defined in KRS 620.020, and child abuse; available community resources and victim services; and reporting requirements. This training shall be developed in consultation with legal, victim services, victim advocacy, and mental health professionals with expertise in domestic violence, child abuse, and rape. Training in recognizing pediatric abusive head trauma may be designed in collaboration with organizations and agencies that specialize in the prevention and recognition of pediatric abusive head trauma approved by the secretary of the Cabinet for Health and Family Services;
 - (c) Human immunodeficiency virus infection and acquired immunodeficiency virus syndrome;~~and~~
 - (d) Identification and investigation of, responding to, and reporting bias-related crime, victimization, or intimidation that is a result of or reasonably related to race, color, religion, sex, or national origin; ***and***
 - (e) ***The characteristics and dynamics of human trafficking, state and federal laws relating to human trafficking, the investigation of cases involving human trafficking, including but not limited to screening for human trafficking, and resources for assistance to the victims of human trafficking.***
- (2) (a) The council shall develop and approve mandatory professional development training courses to be presented to all certified peace officers. A mandatory professional development training course shall be first taken by a certified peace officer in the training year following its approval by the council and biennially thereafter. A certified peace officer shall be required to take these courses no more than two (2) times in eight (8) years.
- (b) Beginning January 1, 2011, the council shall require that one and one-half (1.5) hours of professional development covering the recognition and prevention of pediatric abusive head trauma be included in the curriculum of all mandatory professional development training courses such that all officers shall receive this training at least once by December 31, 2013. The one and one-half (1.5) hours required under this section shall be included in the current number of required continuing education hours.
- (3) The Justice and Public Safety Cabinet shall provide training on the subjects of domestic violence and abuse and may do so utilizing currently available technology. All certified peace officers shall be required to complete this training at least once every two (2) years.
- (4) The council shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish mandatory basic training and professional development training courses.
- (5) The council shall make an annual report by December 31 each year to the Legislative Research Commission that details the subjects and content of mandatory professional development training courses established during the past year and the subjects under consideration for future mandatory training.

➔Section 15. KRS 15.706 is amended to read as follows:

- (1) The Prosecutors Advisory Council shall collect statistical data regarding the investigation, prosecution, dismissal, conviction, or acquittal of any person charged with committing, attempting to commit, or complicity to a sexual offense defined by KRS Chapter 510 involving a minor, **human trafficking offenses involving a minor engaged in commercial sexual activity**, incest involving a minor, use of a minor in a sexual performance, or unlawful transaction with a minor.
- (2) Each Commonwealth's attorney, each county attorney, the secretary of the Cabinet for Health and Family Services, the commissioner of the Department of Kentucky State Police, each Circuit Court clerk, and the Administrative Office of the Courts shall provide any data requested by the council for this purpose, on a form prescribed by the council, at intervals as the council may direct.
- (3) The council may contract with any other public agency to collect the data in lieu of collecting the data itself.
- (4) The Prosecutors Advisory Council may promulgate administrative regulations to specify information to be reported.
- (5) The information required to be reported by this section shall be provided by each Commonwealth's attorney and county attorney at the end of each quarter of the calendar year or as otherwise directed by the Prosecutors Advisory Council.
- (6) The Prosecutors Advisory Council and the Office of the Attorney General shall compile the information by county and issue a public report at least annually.
- (7) The public report shall not contain the name or identifying information of a victim or person not formally charged with the commission of child sexual abuse **or human trafficking of a child**. Information collected by the Commonwealth's attorney or county attorney or by the Prosecutors Advisory Council containing data which cannot be published shall be excluded from inspection, unless by court order, from the Open Records Law.
- (8) Any Commonwealth's attorney or any county attorney who fails to report information as defined by this section or administrative regulation shall be subject to salary reduction as authorized by KRS 61.120.

➔Section 16. KRS 15.718 is amended to read as follows:

- (1) The Attorney General shall provide initial training courses and, at least once every two (2) years, continuing education courses for Commonwealth's attorneys and county attorneys and their staffs concerning:
 - (a) The dynamics of domestic violence, child physical and sexual abuse, rape, effects of crime on adult and child victims, legal remedies for protection, lethality and risk issues, profiles of offenders, model protocols for addressing domestic violence, child abuse, rape, available community resources and victims services, and reporting requirements; **and**
 - (b) ***The appropriate response to victims of human trafficking, including but not limited to screening for victims of human trafficking, federal and state legislation on human trafficking, appropriate services and referrals for victims of human trafficking, working with interpreters, and agency protocol for handling child trafficking cases.***
- (2) The training shall be developed in consultation with prosecutors, victims services, victim advocacy, and mental health professionals with an expertise in domestic violence, child abuse, **human trafficking**, and rape.
- (3)~~(2)~~ Each Commonwealth's Attorney, assistant Commonwealth's Attorney, county attorney, and assistant county attorney shall successfully complete the training.

➔SECTION 17. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO READ AS FOLLOWS:

The Department of Kentucky State Police shall designate a unit within the department to receive and investigate complaints of human trafficking. The unit shall cooperate with and assist prosecutorial agencies and local and federal law enforcement, as well as law enforcement from other states, in the receipt and investigation of complaints of human trafficking.

➔Section 18. KRS 421.500 is amended to read as follows:

- (1) As used in KRS 421.500 to 421.575, "victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime classified as stalking, unlawful imprisonment, use of a minor in a sexual performance, unlawful transaction with a minor in the first degree, terroristic threatening, menacing, harassing communications, intimidating a witness, criminal homicide, robbery, rape, assault, sodomy, kidnapping, burglary in the first or second degree, sexual abuse, wanton

endangerment, criminal abuse, *human trafficking*, or incest. If the victim is a minor or legally incapacitated, "victim" means a parent, guardian, custodian or court-appointed special advocate.

- (a) If the victim is deceased and the relation is not the defendant, the following relations shall be designated as "victim" for the purpose of exercising those rights contained in KRS 421.500 to 421.575:
 1. The spouse;
 2. An adult child if subparagraph 1. of this paragraph does not apply;
 3. A parent if subparagraphs 1. and 2. of this paragraph do not apply;
 4. A sibling if subparagraphs 1. to 3. of this paragraph do not apply; and
 5. A grandparent if subparagraphs 1. to 4. of this paragraph do not apply.
 - (b) If the victim is deceased and the relation is not the defendant, the following relations shall be designated as "victims" for the purpose of presenting victim impact testimony under KRS 532.055(2)(a)7.:
 1. A spouse;
 2. An adult child;
 3. A parent;
 4. A sibling; and
 5. A grandparent.
- (2) If any court believes that the health, safety, or welfare of a victim who is a minor or is legally incapacitated would not otherwise adequately be protected, the court may appoint a special advocate to represent the interest of the victim and to exercise those rights provided for by KRS 421.500 to 421.575. Communication between the victim and the special advocate shall be privileged.
 - (3) Law enforcement personnel shall ensure that victims receive information on available protective, emergency, social, and medical services upon initial contact with the victim and are given information on the following as soon as possible:
 - (a) Availability of crime victim compensation where applicable;
 - (b) Community based treatment programs;
 - (c) The criminal justice process as it involves the participation of the victim or witness;
 - (d) The arrest of the accused; and
 - (e) How to register to be notified when a person has been released from prison, jail, a juvenile detention facility, or a psychiatric facility or forensic psychiatric facility if the case involves a violent crime as defined in KRS 439.3401 and the person charged with or convicted of the offense has been involuntarily hospitalized pursuant to KRS Chapter 202A.
 - (4) Law enforcement officers and attorneys for the Commonwealth shall provide information to victims and witnesses on how they may be protected from intimidation, harassment, and retaliation as defined in KRS 524.040 or 524.055.
 - (5) Attorneys for the Commonwealth shall make a reasonable effort to insure that:
 - (a) All victims and witnesses who are required to attend criminal justice proceedings are notified promptly of any scheduling changes that affect their appearances;
 - (b) If victims so desire and if they provide the attorney for the Commonwealth with a current address and telephone number, they shall receive prompt notification, if possible, of judicial proceedings relating to their case, including, but not limited to, the defendant's release on bond and any special conditions of release; of the charges against the defendant, the defendant's pleading to the charges, and the date set for the trial; of notification of changes in the custody of the defendant and changes in trial dates; of the verdict, the victim's right to make an impact statement for consideration by the court at the time of sentencing of the defendant, the date of sentencing, the victim's right to receive notice of any parole board hearing held for the defendant, and that the office of Attorney General will notify the victim if an appeal of the conviction is pursued by the defendant; and of a scheduled hearing for shock probation or for bail pending appeal and any orders resulting from that hearing; and

- (c) The victim knows how to register to be notified when a person has been released from a prison, jail, a juvenile detention facility, or a psychiatric facility or forensic psychiatric facility if the case involves a violent crime as defined in KRS 439.3401 and the person charged with or convicted of the offense has been involuntarily hospitalized pursuant to KRS Chapter 202A;
- (d) The victim receives information on available:
 - 1. Protective, emergency, social, and medical services;
 - 2. Crime victim compensation, where applicable;
 - 3. Restitution, where applicable;
 - 4. Assistance from a victim advocate; and
 - 5. Community-based treatment programs; and
- (e) The victim of crime may, pursuant to KRS 15.247, receive protection from harm and threats of harm arising out of cooperation with law enforcement and prosecution efforts.
- (6) The victim shall be consulted by the attorney for the Commonwealth on the disposition of the case including dismissal, release of the defendant pending judicial proceedings, any conditions of release, a negotiated plea, and entry into a pretrial diversion program.
- (7) In prosecution for offenses listed in this section for the purpose of defining "victim," law enforcement agencies and attorneys for the Commonwealth shall promptly return a victim's property held for evidentiary purposes unless there is a compelling reason for retaining it. Photographs of such property shall be received by the court as competent evidence in accordance with the provisions of KRS 422.350.
- (8) A victim or witness who so requests shall be assisted by law enforcement agencies and attorneys for the Commonwealth in informing employers that the need for victim or witness cooperation in the prosecution of the case may necessitate absence of that victim or witness from work.
- (9) The Attorney General, where possible, shall provide technical assistance to law enforcement agencies and attorneys for the Commonwealth if such assistance is requested for establishing a victim assistance program.
- (10) If a defendant seeks appellate review of a conviction and the Commonwealth is represented by the Attorney General, the Attorney General shall make a reasonable effort to notify victims promptly of the appeal, the status of the case, and the decision of the appellate court.

➔Section 19. KRS 421.570 is amended to read as follows:

- (1) For the purposes of this section and KRS 421.575, "victim advocate" means an individual at least eighteen (18) years of age and of good moral character, who is employed by, or serves as a volunteer for, a public or private agency, organization, or official to counsel and assist crime victims as defined in KRS 421.500, and includes a victim advocate employed by a Commonwealth's attorney pursuant to KRS 15.760 and a victim advocate employed by a county attorney pursuant to KRS 69.350.
- (2) Each victim advocate shall complete training which shall include information concerning the difference between advocacy and the practice of law, and the appropriate intervention with crime victims, including victims of domestic violence, child physical and sexual abuse, **human trafficking**, and rape.
- (3) A victim advocate shall not engage in the practice of law as defined in KRS 524.130.

➔Section 20. KRS 413.249 is amended to read as follows:

- (1) As used in this section:
 - (a) "Childhood sexual assault" means an act or series of acts against a person less than eighteen (18) years old and which meets the criteria defining a felony in KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 529.100 where the offense involves commercial sexual activity, **529.110 where the offense involves commercial sexual activity**, 530.020, 530.064, 531.310, or 531.320. No prior criminal prosecution or conviction of the civil defendant for the act or series of acts shall be required to bring a civil action for redress of childhood sexual assault;
 - (b) "Childhood sexual abuse" means an act or series of acts against a person less than eighteen (18) years old and which meets the criteria defining a misdemeanor in KRS 510.120, KRS 510.130, KRS 510.140, or KRS 510.150. No prior criminal prosecution or conviction of the civil defendant for the act or series of acts shall be required to bring a civil action for redress of childhood sexual abuse;

- (c) "Child" means a person less than eighteen (18) years old; and
 - (d) "Injury or illness" means either a physical or psychological injury or illness.
- (2) A civil action for recovery of damages for injury or illness suffered as a result of childhood sexual abuse or childhood sexual assault shall be brought before whichever of the following periods last expires:
- (a) Within five (5) years of the commission of the act or the last of a series of acts by the same perpetrator;
 - (b) Within five (5) years of the date the victim knew, or should have known, of the act; or
 - (c) Within five (5) years after the victim attains the age of eighteen (18) years.
- (3) If a complaint is filed alleging that an act of childhood sexual assault or childhood sexual abuse occurred more than five (5) years prior to the date that the action is commenced, the complaint shall be accompanied by a motion to seal the record and the complaint shall immediately be sealed by the clerk of the court. The complaint shall remain sealed until:
- (a) The court rules upon the motion to seal;
 - (b) Any motion to dismiss under CR 12.02 is ruled upon, and if the complaint is dismissed, the complaint and any related papers or pleadings shall remain sealed unless opened by a higher court; or
 - (c) The defendant files an answer and a motion to seal the record upon grounds that a valid factual defense exists, to be raised in a motion for summary judgment pursuant to CR 56. The record shall remain sealed by the clerk until the court rules upon the defendant's motion to close the record. If the court grants the motion to close, the record shall remain sealed until the defendant's motion for summary judgment is granted. The complaint, motions, and other related papers or pleadings shall remain sealed unless opened by a higher court.

➔Section 21. KRS 421.350 is amended to read as follows:

- (1) This section applies only to a proceeding in the prosecution of an offense, including but not limited to an offense under KRS 510.040 to 510.155, 529.030 to 529.050, 529.070, **529.100**, **529.110**, 530.020, 530.060, 530.064(1)(a), 531.310, 531.320, 531.370, or any specified in KRS 439.3401 and all dependency proceedings pursuant to KRS Chapter 620, when the act is alleged to have been committed against a child twelve (12) years of age or younger, and applies to the statements or testimony of that child or another child who is twelve (12) years of age or younger who witnesses one of the offenses included in this subsection.
- (2) The court may, on the motion of the attorney for any party and upon a finding of compelling need, order that the testimony of the child be taken in a room other than the courtroom and be televised by closed circuit equipment in the courtroom to be viewed by the court and the finder of fact in the proceeding. Only the attorneys for the defendant and for the state, persons necessary to operate the equipment, and any person whose presence the court finds would contribute to the welfare and well-being of the child may be present in the room with the child during his testimony. Only the attorneys may question the child. The persons operating the equipment shall be confined to an adjacent room or behind a screen or mirror that permits them to see and hear the child during his testimony, but does not permit the child to see or hear them. The court shall permit the defendant to observe and hear the testimony of the child in person, but shall ensure that the child cannot hear or see the defendant.
- (3) The court may, on the motion of the attorney for any party and upon a finding of compelling need, order that the testimony of the child be taken outside the courtroom and be recorded for showing in the courtroom before the court and the finder of fact in the proceeding. Only those persons permitted to be present at the taking of testimony under subsection (3) of this section may be present during the taking of the child's testimony, and the persons operating the equipment shall be confined from the child's sight and hearing as provided by subsection (3) of this section. The court shall permit the defendant to observe and hear the testimony of the child in person, but shall ensure that the child cannot hear or see the defendant. The court shall also ensure that:
- (a) The recording is both visual and oral and is recorded on film or videotape or by other electronic means;
 - (b) The recording equipment was capable of making an accurate recording, the operator was competent, and the recording is accurate and is not altered;
 - (c) Each voice on the recording is identified; and
 - (d) Each party is afforded an opportunity to view the recording before it is shown in the courtroom.

- (4) If the court orders the testimony of a child to be taken under subsection (2) or (3) of this section, the child may not be required to testify in court at the proceeding for which the testimony was taken, but shall be subject to being recalled during the course of the trial to give additional testimony under the same circumstances as with any other recalled witness, provided that the additional testimony is given utilizing the provisions of subsection (2) or (3) of this section.
- (5) For the purpose of subsections (2) and (3) of this section, "compelling need" is defined as the substantial probability that the child would be unable to reasonably communicate because of serious emotional distress produced by the defendant's presence.

➔Section 22. KRS 431.082 is amended to read as follows:

- (1) In the event of the conviction of a defendant for the violation of any offense proscribed by KRS Chapter 510 or 531 **or any human trafficking offense proscribed by KRS Chapter 529**, the person who was the victim of the offense may bring an action in damages against the defendant in the criminal case.
- (2) If the plaintiff prevails, he **or she** shall be entitled to attorney's fees and all other costs incurred in the bringing of the action, including but not limited to the services of expert witnesses, testing and counseling, medical and psychological treatment, and other expenses reasonably incurred as a result of the criminal act.
- (3) Any award of nominal damages shall support an award of attorneys fees and costs to the prevailing party.
- (4) Punitive damages as well as compensatory damages shall be awardable in cases brought under this section.
- (5) The provisions of this section shall not be construed as repealing any provision of KRS 431.080 or any other applicable statute or of any statutory or common law right of action but shall be construed as ancillary and supplemental thereto.

➔Section 23. KRS 431.600 is amended to read as follows:

- (1) Each investigation of reported or suspected sexual abuse of a child shall be conducted by a specialized multidisciplinary team composed, at a minimum, of law enforcement officers and social workers from the Cabinet for Health and Family Services. Cabinet for Health and Family Services social workers shall be available to assist in all investigations under this section but shall be lead investigators only in those cases of reported or suspected sexual abuse of a child in which a person exercising custodial control or supervision, as defined in KRS 600.020, is the alleged or suspected perpetrator of the abuse. Additional team members may include Commonwealth's and county attorneys, children's advocacy center staff, mental health professionals, medical professionals, victim advocates, **including those for victims of human trafficking**, educators, and other related professionals, as necessary, operating under protocols governing roles, responsibilities, and procedures developed by the Kentucky Multidisciplinary Commission on Child Sexual Abuse and promulgated by the Attorney General as administrative regulations pursuant to KRS Chapter 13A.
- (2) Local protocols shall be developed in each county or group of contiguous counties by the agencies and persons specified in subsection (1) of this section specifying how the state protocols shall be followed within the county or group of contiguous counties. These protocols shall be approved by the Kentucky Multidisciplinary Commission on Child Sexual Abuse.
- (3) If adequate personnel are available, each Commonwealth's attorney's office and each county attorney's office shall have a child sexual abuse specialist.
- (4) Commonwealth's attorneys and county attorneys, or their assistants, shall take an active part in interviewing and familiarizing the child alleged to have been abused, or who is testifying as a witness, with the proceedings throughout the case, beginning as early as practicable in the case.
- (5) If adequate personnel are available, Commonwealth's attorneys and county attorneys shall provide for an arrangement which allows one (1) lead prosecutor to handle the case from inception to completion to reduce the number of persons involved with the child victim.
- (6) Commonwealth's attorneys and county attorneys and the Cabinet for Health and Family Services and other team members shall minimize the involvement of the child in legal proceedings, avoiding appearances at preliminary hearings, grand jury hearings, and other proceedings when possible.
- (7) Commonwealth's attorneys and county attorneys shall make appropriate referrals for counseling, private legal services, and other appropriate services to ensure the future protection of the child when a decision is made not to prosecute the case. The Commonwealth's attorney or county attorney shall explain the decision not to prosecute to the family or guardian, as appropriate, and to the child victim.

- (8) To the extent practicable and when in the best interest of a child alleged to have been abused, interviews with a child shall be conducted at a children's advocacy center.

➔SECTION 24. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

- (1) *The cabinet shall report all incidents of human trafficking as defined in Section 7 of this Act about which the cabinet knows or has reasonable cause to believe within twenty-four (24) hours to a local law enforcement agency or the Department of Kentucky State Police, and the appropriate Commonwealth's attorney or county attorney.*
- (2) *Anyone acting upon reasonable cause in the making of a report under subsection (1) of this section in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed.*

➔Section 25. KRS 337.385 is amended to read as follows:

- (1) *Except as provided in subsection (3) of this section*, any employer who pays any employee less than wages and overtime compensation to which such employee is entitled under or by virtue of KRS 337.020 to 337.285 shall be liable to such employee affected for the full amount of such wages and overtime compensation, less any amount actually paid to such employee by the employer, for an additional equal amount as liquidated damages, and for costs and such reasonable attorney's fees as may be allowed by the court.
- (2) ~~Provided, that~~ If, in any action commenced to recover such unpaid wages or liquidated damages, the employer shows to the satisfaction of the court that the act or omission giving rise to such action was in good faith and that he or she had reasonable grounds for believing that his or her act or omission was not a violation of KRS 337.020 to 337.285, the court may, in its sound discretion, award no liquidated damages, or award any amount thereof not to exceed the amount specified in this section. Any agreement between such employee and the employer to work for less than the applicable wage rate shall be no defense to such action. Such action may be maintained in any court of competent jurisdiction by any one (1) or more employees for and in behalf of himself, herself, or themselves.
- (3) *If the court finds that the employer has subjected the employee to forced labor or services as defined in Section 7 of this Act, the court shall award the employee punitive damages not less than three (3) times the full amount of the wages and overtime compensation due, less any amount actually paid to such employee by the employer, and for costs and such reasonable attorney's fees as may be allowed by the court, including interest thereon.*
- (4)~~(2)~~ At the written request of any employee paid less than the amount to which he or she is entitled under the provisions of KRS 337.020 to 337.285, the commissioner may take an assignment of such wage claim in trust for the assigning employee and may bring any legal action necessary to collect such claim, and the employer shall be required to pay the costs and such reasonable attorney's fees as may be allowed by the court. The commissioner in case of suit shall have power to join various claimants against the same employer in one (1) action.

➔Section 26. KRS 516.030 is amended to read as follows:

- (1) A person is guilty of forgery in the second degree when, with intent to defraud, deceive or injure another, he falsely makes, completes or alters a written instrument, *or in the commission of a human trafficking offense as described in KRS 529.100 or 529.110, coerces another person to falsely make, complete, or alter a written instrument*, which is or purports to be or which is calculated to become or to represent when completed:
- (a) A deed, will, codicil, contract, assignment, commercial instrument, credit card or other instrument which does or may evidence, create, transfer, terminate or otherwise affect a legal right, interest, obligation or status; or
 - (b) A public record or an instrument filed or required or authorized by law to be filed in or with a public office or public employee; or
 - (c) A written instrument officially issued or created by a public office, public employee or governmental agency.
- (2) Forgery in the second degree is a Class D felony.

➔Section 27. By November 1, 2013, the Cabinet for Health and Family Services shall submit to the Legislative Research Commission a comprehensive report on its plan to implement treatment and services for children who are suspected to be victims of human trafficking as well as recommended statutory changes that will

improve the cabinet's ability to investigate these cases and provide treatment and services specific to the needs of these children.

➔Section 28. Sections 1 to 28 of this Act may be cited as the "Human Trafficking Victims Rights Act."

Signed by Governor March 19, 2013.

CHAPTER 26

(HB 8)

AN ACT relating to drugs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 218A.010 is amended to read as follows:

As used in this chapter:

- (1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:
 - (a) A practitioner or by his or her authorized agent under his or her immediate supervision and pursuant to his or her order; or
 - (b) The patient or research subject at the direction and in the presence of the practitioner;
- (2) "Anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone that promotes muscle growth and includes those substances listed in KRS 218A.090(5) but does not include estrogens, progestins, and anticosteroids;
- (3) "Cabinet" means the Cabinet for Health and Family Services;
- (4) "Child" means any person under the age of majority as specified in KRS 2.015;
- (5) "Cocaine" means a substance containing any quantity of cocaine, its salts, optical and geometric isomers, and salts of isomers;
- (6) "Controlled substance" means methamphetamine, or a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue;
- (7) (a) "Controlled substance analogue," except as provided in paragraph (b) of this subsection, means a substance:
 1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and
 2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or
 3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.
- (b) Such term does not include:
 1. Any substance for which there is an approved new drug application;
 2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such exemption; or
 3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance;

- (8) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance;
- (9) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;
- (10) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V controlled substance to or for the use of an ultimate user;
- (11) "Distribute" means to deliver other than by administering or dispensing a controlled substance;
- (12) "Dosage unit" means a single pill, capsule, ampule, liquid, or other form of administration available as a single unit;
- (13) "Drug" means:
- (a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;
 - (b) Substances intended for use in the diagnosis, care, mitigation, treatment, or prevention of disease in man or animals;
 - (c) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and
 - (d) Substances intended for use as a component of any article specified in this subsection.
- It does not include devices or their components, parts, or accessories;
- (14) "Good faith prior examination," as used in KRS Chapter 218A and for criminal prosecution only, means an in-person medical examination of the patient conducted by the prescribing practitioner or other health-care professional routinely relied upon in the ordinary course of his or her practice, at which time the patient is physically examined and a medical history of the patient is obtained. "In-person" includes telehealth examinations. This subsection shall not be applicable to hospice providers licensed pursuant to KRS Chapter 216B;
- (15) "Hazardous chemical substance" includes any chemical substance used or intended for use in the illegal manufacture of a controlled substance as defined in this section or the illegal manufacture of methamphetamine as defined in KRS 218A.1431, which:
- (a) Poses an explosion hazard;
 - (b) Poses a fire hazard; or
 - (c) Is poisonous or injurious if handled, swallowed, or inhaled;
- (16) "Heroin" means a substance containing any quantity of heroin, or any of its salts, isomers, or salts of isomers;
- (17) "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance or methamphetamine, the control of which is necessary to prevent, curtail, or limit manufacture;
- (18) "Intent to manufacture" means any evidence which demonstrates a person's conscious objective to manufacture a controlled substance or methamphetamine. Such evidence includes but is not limited to statements and a chemical substance's usage, quantity, manner of storage, or proximity to other chemical substances or equipment used to manufacture a controlled substance or methamphetamine;
- (19) "Isomer" means the optical isomer, except as used in KRS 218A.050(3) and 218A.070(1)(d). As used in KRS 218A.050(3), the term "isomer" means the optical, positional, or geometric isomer. As used in KRS 218A.070(1)(d), the term "isomer" means the optical or geometric isomer;
- (20) "Manufacture," except as provided in KRS 218A.1431, means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of

extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:

- (a) By a practitioner as an incident to his or her administering or dispensing of a controlled substance in the course of his or her professional practice;
 - (b) By a practitioner, or by his or her authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or
 - (c) By a pharmacist as an incident to his or her dispensing of a controlled substance in the course of his or her professional practice;
- (21) "Marijuana" means all parts of the plant *Cannabis* sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances;
- (22) "Medical history," as used in KRS Chapter 218A and for criminal prosecution only, means an accounting of a patient's medical background, including but not limited to prior medical conditions, prescriptions, and family background;
- (23) "Medical order," as used in KRS Chapter 218A and for criminal prosecution only, means a lawful order of a specifically identified practitioner for a specifically identified patient for the patient's health-care needs. "Medical order" may or may not include a prescription drug order;
- (24) "Medical record," as used in KRS Chapter 218A and for criminal prosecution only, means a record, other than for financial or billing purposes, relating to a patient, kept by a practitioner as a result of the practitioner-patient relationship;
- (25) "Methamphetamine" means any substance that contains any quantity of methamphetamine, or any of its salts, isomers, or salts of isomers;
- (26) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
- (a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;
 - (b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a) of this subsection, but not including the isoquinoline alkaloids of opium;
 - (c) Opium poppy and poppy straw;
 - (d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
 - (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and
 - (g) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (a) to (f) of this subsection;
- (27) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.030, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms;
- (28) "Opium poppy" means the plant of the species *papaver somniferum* L., except its seeds;
- (29) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;
- (30) "Physical injury" has the same meaning it has in KRS 500.080;
- (31) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;

- (32) "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy;
- (33) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, optometrist as authorized in KRS 320.240, advanced practice registered nurse as authorized under KRS 314.011, or other person licensed, registered, or otherwise permitted by state or federal law to acquire, distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state. "Practitioner" also includes a physician, dentist, podiatrist, veterinarian, or advanced practice registered nurse authorized under KRS 314.011 who is a resident of and actively practicing in a state other than Kentucky and who is licensed and has prescriptive authority for controlled substances under the professional licensing laws of another state, unless the person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail;
- (34) "Practitioner-patient relationship," as used in KRS Chapter 218A and for criminal prosecution only, means a medical relationship that exists between a patient and a practitioner or the practitioner's designee, after the practitioner or his or her designee has conducted at least one (1) good faith prior examination;
- (35) "Prescription" means a written, electronic, or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian, optometric practitioner, or advanced practice registered nurse, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;
- (36) "Prescription blank," with reference to a controlled substance, means a document that meets the requirements of KRS 218A.204 and 217.216;
- (37) "Presumptive probation" means a sentence of probation not to exceed the maximum term specified for the offense, subject to conditions otherwise authorized by law, that is presumed to be the appropriate sentence for certain offenses designated in this chapter, notwithstanding contrary provisions of KRS Chapter 533. That presumption shall only be overcome by a finding on the record by the sentencing court of substantial and compelling reasons why the defendant cannot be safely and effectively supervised in the community, is not amenable to community-based treatment, or poses a significant risk to public safety;
- (38) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance;
- (39) "Recovery program" means an evidence-based, nonclinical service that assists individuals and families working toward sustained recovery from substance use and other criminal risk factors. This can be done through an array of support programs and services that are delivered through residential and nonresidential means;
- (40) "Salvia" means *Salvia divinorum* or Salvinorin A and includes all parts of the plant presently classified botanically as *Salvia divinorum*, whether growing or not, the seeds thereof, any extract from any part of that plant, and every compound, manufacture, derivative, mixture, or preparation of that plant, its seeds, or its extracts, including salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation of that plant, its seeds, or extracts. The term shall not include any other species in the genus *salvia*;
- (41) "Second or subsequent offense" means that for the purposes of this chapter an offense is considered as a second or subsequent offense, if, prior to his or her conviction of the offense, the offender has at any time been convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a nontrafficking offense shall be treated as a prior offense only when the subsequent offense is a nontrafficking offense. For the purposes of this section, a conviction voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under this chapter;
- (42) "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution;
- (43) "Serious physical injury" has the same meaning it has in KRS 500.080;
- (44) "Synthetic cannabinoids or piperazines" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law, that contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-211); or any compound in the following structural classes:

- (a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, and AM-2201;
- (b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to JWH-167, JWH-250, JWH-251, and RCS-8;
- (c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and RCS-4;
- (d) Cyclohexylphenols: Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not substituted in the cyclohexyl ring to any extent. Examples of this structural class include but are not limited to CP 47,497 and its C8 homologue (cannabicyclohexanol);
- (e) Naphthylmethylindoles: Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-175, JWH-184, and JWH-185;
- (f) Naphthoylpyrroles: Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-368;
- (g) Naphthylmethylindenes: Any compound containing a 1-(1-naphthylmethyl)indene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-176;
- (h) ***Tetramethylcyclopropanoylindoles: Any compound containing a 3-(1-tetramethylcyclopropoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not further substituted in the tetramethylcyclopropyl ring to any extent. Examples of this structural class include but are not limited to UR-144 and XLR-11;***
- (i) ***Adamantoylindoles: Any compound containing a 3-(1-adamantoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring system to any extent. Examples of this structural class include but are not limited to AB-001 and AM-1248; or***

- (j) ~~(h)~~ Any other synthetic cannabinoid or piperazine which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law;
- (45) "Synthetic cathinones" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law (not including bupropion or compounds listed under a different schedule) structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in one (1) or more of the following ways:
- By substitution in the ring system to any extent with alkyl, alkylendioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one (1) or more other univalent substituents. Examples of this class include but are not limited to 3,4-Methylenedioxcathinone (bk-MDA);
 - By substitution at the 3-position with an acyclic alkyl substituent. Examples of this class include but are not limited to 2-methylamino-1-phenylbutan-1-one (buphedrone);
 - By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure. Examples of this class include but are not limited to Dimethylcathinone, Ethcathinone, and α -Pyrrolidinopropiophenone (α -PPP); or
 - Any other synthetic cathinone which is not approved by the United States Food and Drug Administration or, if approved, is not dispensed or possessed in accordance with state or federal law;
- (46) "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic cathinones;
- (47) "Telehealth" has the same meaning it has in KRS 311.550;
- (48) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:
- Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
 - Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and
 - Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;
- (49) "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, or sell a controlled substance;
- (50) "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution; and
- (51) "Ultimate user" means a person who lawfully possesses a controlled substance for his or her own use or for the use of a member of his or her household or for administering to an animal owned by him or her or by a member of his or her household.

➔Section 2. KRS 218A.050 is amended to read as follows:

Unless otherwise rescheduled by administrative regulation of the Cabinet for Health and Family Services, the controlled substances listed in this section are included in Schedule I:

- Any material, compound, mixture, or preparation which contains any quantity of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, or salts is possible within the specific chemical designation: Acetylmethadol; Allylprodine; Alphacetylmethadol; Alphameprodine; Alphamethadol; Benzethidine; Betacetylmethadol; Betameprodine; Betamethadol; Betaprodine; Clonitazene; Dextromoramide; Dextrorphan; Diampromide; Diethylthiambutene; Dimenoxadol; Dimepheptanol; Dimethylthiambutene; Dioxaphetyl butyrate; Dipipanone; Ethylmethylthiambutene; Etonitazene; Etoxidine; Furethidine; Hydroxypethidine; Ketobemidone; Levomoramide; Levophenacymorphan; Morpheridine; Noracymethadol; Norlevorphanol; Normethadone; Norpipanone; Phenadoxone; Phenampromide; Phenomorphan; Phenoperidine; Piritramide; Proheptazine; Properidine; Propiram; Racemoramide; Trimeperidine.
- Any material, compound, mixture, or preparation which contains any quantity of the following opium derivatives, including their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, or salts of isomers is possible within the specific chemical designation:

Acetorphine; Acetyldihydrocodeine; Benzylmorphine; Codeine methylbromide; Codeine-N-Oxide; Cyprenorphine; Desomorphine; Dihydromorphine; Etorphine; Heroin; Hydromorphinol; Methyl-desorphine; Methyl-dihydromorphine; Morphine methylbromide; Morphine methylsulfonate; Morphine-N-Oxide; Myrophine; Nicocodeine; Nicomorphine; Normorphine; Pholcodine; Thebacon.

- (3) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, or salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation: 3, 4-methylenedioxyamphetamine; 5-methoxy-3, 4-methylenedioxy amphetamine; 3, 4, 5-trimethoxyamphetamine; Bufotenine; Diethyltryptamine; Dimethyltryptamine; 4-methyl-2, 5-dimethoxyamphetamine; Ibogaine; Lysergic acid diethylamide; Marijuana; Mescaline; Peyote; N-ethyl-3-piperidyl benzilate; N-methyl-3-piperidyl benzilate; Psilocybin; Psilocyn; Tetrahydrocannabinols; Hashish; Phencyclidine, 2 Methylamino-1-phenylpropan-1-one (including but not limited to Methcathinone, Cat, and Ephedrone); synthetic drugs; or salvia.
- (4) Any material, compound, mixture, or preparation which contains any quantity of the following substance having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, or salts of isomers is possible within the specific chemical designation: gamma hydroxybutyric acid.
- (5) *Any material, compound, mixture, or preparation which contains any quantity of the following substances:*
- 2-(2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5H-NBOMe);*
 - 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5I-NBOMe);*
 - 2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5B-NBOMe); or*
 - 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5C-NBOMe).*

➔Section 3. KRS 530.065 is amended to read as follows:

- (1) A person is guilty of unlawful transaction with a minor in the second degree when he knowingly induces, assists, or causes a minor to engage in illegal controlled substances activity involving marijuana, *synthetic drugs*, illegal gambling activity, or any other criminal activity constituting a felony.
- (2) Unlawful transaction with a minor in the second degree is a Class D felony.

➔Section 4. KRS 218A.1440 is amended to read as follows:

- (1) (a) Notwithstanding KRS 218A.1446, it shall be unlawful for a person convicted after July 12, ~~2013~~²⁰¹², of any offense in this chapter relating to methamphetamine or any offense in KRS Chapter 250 or 514 relating to anhydrous ammonia to possess or attempt to possess any compound, mixture, or preparation containing ephedrine, pseudoephedrine, phenylpropanolamine, their salts or optical isomers, or salts of optical isomers until *ten (10)*~~{five (5)}~~ years have elapsed from the~~{later of:~~
- ~~The~~ date the person was convicted, *unless the offense was a violation of KRS 218A.1432, in which case the prohibition shall be permanent*~~;~~
 - ~~The date the person was discharged from incarceration; or~~
 - ~~The date the person was released from probation, shock probation, parole, or other form of conditional discharge.~~
- (b) Notwithstanding KRS 218A.1446, it shall be unlawful for a person convicted prior to July 12, ~~2013~~²⁰¹², of any offense in this chapter relating to methamphetamine or any offense in KRS Chapter 250 or 514 relating to anhydrous ammonia to possess or attempt to possess any compound, mixture, or preparation containing ephedrine, pseudoephedrine, phenylpropanolamine, their salts or optical isomers, or salts of optical isomers without a prescription until *ten (10)*~~{five (5)}~~ years have elapsed from the~~{later of:~~
- ~~The~~ date the person was convicted, *unless the offense was a violation of KRS 218A.1432, in which case the prohibition shall be permanent*~~;~~
 - ~~The date the person was discharged from incarceration; or~~
 - ~~The date the person was released from probation, shock probation, parole, or other form of conditional discharge.~~

- (2) The Administrative Office of the Courts shall report monthly to the Office of Drug Control Policy for utilization in the electronic logging or recordkeeping mechanism required under KRS 218A.1446 the conviction of any person for any offense in this chapter relating to methamphetamine or any offense in KRS Chapter 250 or 514 relating to anhydrous ammonia, as well as the vacating, reversing, or overruling of any previously reported conviction. The information reported shall include:
- (a) The defendant's name;
 - (b) The defendant's date of birth;
 - (c) The defendant's address;
 - (d) The defendant's identification number on a government-issued photographic identification document if available in the defendant's records readily available to the circuit clerk;
 - (e) Any offense or offenses specified in subsection (1) of this section for which the defendant was convicted;
 - (f) The defendant's date of conviction; and
 - (g) The defendant's sentence or, if applicable, that the conviction was reversed, overruled, or vacated.
- (3) A court convicting a defendant of an offense triggering the prohibition established in subsection (1) of this section shall inform the defendant of the restrictions contained in this section. Failure of a court to provide the information in accordance with this subsection shall not affect the validity of the prohibition.

➔Section 5. KRS 218A.1446 is amended to read as follows:

- (1) Any compound, mixture, or preparation containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers shall be dispensed, sold, or distributed only by a registered pharmacist, a pharmacy intern, or a pharmacy technician.
- (2) Any person purchasing, receiving, or otherwise acquiring any nonprescription compound, mixture, or preparation containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers shall:
 - (a) Produce a government-issued photo identification showing the date of birth of the person; and
 - (b) Sign ~~a[n electronic]~~ log or record showing the:
 1. Date of the transaction;
 2. Name, date of birth, and address of the person making the purchase; and
 3. The amount and name of the compound, mixture, or preparation.

Only an electronic logging or recordkeeping mechanism approved by the Office of Drug Control Policy may be utilized to meet the requirements of this subsection. No pharmacy may dispense or sell any compound, mixture, or preparation containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers unless the electronic logging or recordkeeping mechanism required by this section is provided at no cost to the pharmacy.

- (3) An electronic log or record, as described in subsection (2) of this section, shall be kept of each day's transactions. The registered pharmacist, a pharmacy intern, or a pharmacy technician shall initial the entry of each sale in the log, evidencing completion of each transaction. The log shall be:
 - (a) Kept for a period of two (2) years; and
 - (b) Subject to random and warrantless inspection by city, county, or state law enforcement officers.
- (4)
 - (a) Intentional failure of a registered pharmacist, a pharmacy intern, or a pharmacy technician to make an accurate entry of a sale of a product or failure to maintain the log records as required by this section may subject him or her to a fine of not more than one thousand dollars (\$1,000) for each violation and may be evidence of a violation of KRS 218A.1438.
 - (b) If evidence exists that the pharmacist's, the pharmacy intern's, or the pharmacist technician's employer fails, neglects, or encourages incorrect entry of information by improper training, lack of supervision or oversight of the maintenance of logs, or other action or inaction, the employer shall also face liability under this section and any other applicable section of this chapter.

- (c) It shall be a defense to a violation of this section that the person proves that circumstances beyond the control of the registered pharmacist, pharmacy intern, or pharmacy technician delayed or prevented the making of the record or retention of the record as required by this section. Examples of circumstances beyond the control of the registered pharmacist, pharmacy intern, or pharmacy technician include but are not limited to:
1. Fire, natural or manmade disaster, loss of power, and similar events;
 2. Robbery, burglary, shoplifting, or other criminal act by a person on the premises;
 3. A medical emergency suffered by the registered pharmacist, pharmacy intern, or pharmacy technician, another employee of the establishment, a customer, or any other person on the premises; or
 4. Some other circumstance that establishes that an omission was inadvertent.
- (5) No person shall purchase, receive, or otherwise acquire any product, mixture, or preparation or combinations of products, mixtures, or preparations containing more than seven and one-fifth (7.2) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers within any thirty (30) day period or twenty-four (24) grams within any one (1) year period, provided that either of these limits shall not apply to any quantity of product, mixture or preparation dispensed pursuant to a valid prescription. In addition to the thirty (30) day and the one (1) year restrictions, no person shall purchase, receive, or otherwise acquire more than three (3) packages of any product, mixture, or preparation containing ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers during each transaction.
- (6) A person under eighteen (18) years of age shall not purchase or attempt to purchase any quantity of a nonprescription ephedrine, pseudoephedrine, or phenylpropanolamine product as described in subsection (1) of this section. No person shall aid or assist a person under eighteen (18) years of age in purchasing any quantity of a nonprescription ephedrine, pseudoephedrine, or phenylpropanolamine product as described in subsection (1) of this section.
- (7) The requirements of this section shall not apply to any compounds, mixtures, or preparation containing ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers which are in liquid, liquid capsule, or gel capsule form or to any compounds, mixtures, or preparations containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts or optical isomers which are deemed to be not subject to abuse upon joint review and agreement of the Office of Drug Control Policy, the Board of Pharmacy, and the Cabinet for Health and Family Services.
- (8) The provisions of this section shall not apply to a:
- (a) Licensed manufacturer manufacturing and lawfully distributing a product in the channels of commerce;
 - (b) Wholesaler lawfully distributing a product in the channels of commerce;
 - (c) Pharmacy with a valid permit from the Kentucky Board of Pharmacy;
 - (d) Health care facility licensed pursuant to KRS Chapter 216B;
 - (e) Licensed long-term care facility;
 - (f) Government-operated health department;
 - (g) Physician's office;
 - (h) Publicly operated prison, jail, or juvenile correctional facility, or a private adult or juvenile correctional facility under contract with the Commonwealth;
 - (i) Public or private educational institution maintaining a health care program; or
 - (j) Government-operated or industrial medical facility serving its own employees.
- (9) The provisions of this section shall supersede and preempt all local laws, ordinances, and regulations pertaining to the sale of any compounds, mixtures, or preparation containing ephedrine, pseudoephedrine, phenylpropanolamine, their salts or optical isomers, or salts of optical isomers.
- (10) To be approved for use under this section, ~~a[n electronic]~~ logging or recordkeeping system shall:

- (a) Be designed to block the dispensing of any compound, mixture, or preparation containing ephedrine, pseudoephedrine, phenylpropanolamine, their salts or optical isomers, or salts of optical isomers, where the dispensing would exceed the quantity limitations established in this section or would be prohibited under KRS 218A.1440; and
 - (b) Allow unimpeded access by the Office of Drug Control Policy to any data stored in the system for statistical analysis purposes.
- (11) The Office of Drug Control Policy shall prepare and submit to the Legislative Research Commission an annual statistical report on the sale of compounds, mixtures, or preparations containing ephedrine, pseudoephedrine, phenylpropanolamine, their salts or optical isomers, or salts of optical isomers, including state and county sale amounts and numbers of individual purchasers.

➔Section 6. KRS 218A.020 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall administer this chapter and may by regulation add substances to or delete or reschedule all substances enumerated in the schedules set forth in this chapter. In making a determination regarding a substance, the Cabinet for Health and Family Services may consider the following:
- (a) The actual or relative potential for abuse;
 - (b) The scientific evidence of its pharmacological effect, if known;
 - (c) The state of current scientific knowledge regarding the substance;
 - (d) The history and current pattern of abuse;
 - (e) The scope, duration, and significance of abuse;
 - (f) The risk to the public health;
 - (g) The potential of the substance to produce psychic or physiological dependence liability; and
 - (h) Whether the substance is an immediate precursor of a substance already controlled under this chapter.
- (2) After considering the factors enumerated in subsection (1) of this section, the Cabinet for Health and Family Services may adopt a regulation controlling the substance if it finds the substance has a potential for abuse.
- (3) If any substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice thereof is given to the Cabinet for Health and Family Services, the Cabinet for Health and Family Services may similarly control the substance under this chapter by regulation. ***If hydrocodone or any drug containing hydrocodone is rescheduled to Schedule II in this manner, the prescriptive authority existing on the effective date of this Act of any practitioner licensed under the laws of the Commonwealth to prescribe, dispense, or administer hydrocodone or drugs containing hydrocodone shall remain inviolate and shall continue to exist to the same extent as if those drugs had remained classified as Schedule III controlled substances.***
- (4) The Cabinet for Health and Family Services shall exclude any nonnarcotic substance from a schedule if the substance may be lawfully sold over the counter without prescription under the provisions of the Federal Food, Drug and Cosmetic Act, or the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, or the Kentucky Revised Statutes (for the purposes of this section the Kentucky Revised Statutes shall not include any regulations issued thereunder).
- (5) The Office of Drug Control Policy may request that the Cabinet for Health and Family Services schedule a substance substantially similar to a synthetic cannabinoid or piperazine or a synthetic cathinone. The cabinet shall consider the request utilizing the criteria established by this section and shall issue a written response within sixty (60) days of the scheduling request delineating the cabinet's decision to schedule or not schedule the substance and the basis for the cabinet's decision. The cabinet's response shall be provided to the Legislative Research Commission and shall be a public record.

➔Section 7. Whereas the substances identified in this Act pose a clear and present danger to the health, safety, and welfare of the citizens of the Commonwealth and no just reason exists for delay, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 19, 2013.

CHAPTER 27

(HB 11)

AN ACT relating to fire protection services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 75 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section:*
- (a) *"City" means any city government that maintains a regular fire department as defined in KRS 95.010(3)(b); and*
 - (b) *"Fire district" means a fire protection district or a volunteer fire department district created in accordance with the procedures of KRS 65.182.*
- (2) *Except as provided in subsection (4) of this section, a fire district shall not contain or later include within its boundaries any territory that is located within the corporate limits of a city. Subject to the limitations of subsections (3) and (4) of this section, a city shall have the primary right to provide fire service to all territories located within its corporate limits.*
- (3) (a) *In order for a city to assume the provision of fire service to annexed or newly incorporated territory that is being served by a fire district, the city shall pay the fire district for the proportionate share of the fire district's indebtedness that was incurred while the annexed or newly incorporated territory was included within the fire district.*
- (b) *Unless otherwise agreed to in writing by the city and the fire district, the proportionate share of the fire district's debt attributable to annexed or newly incorporated territory shall be calculated based upon the ratio of the total value of taxable real property included within the annexed or newly incorporated territory to the total value of all taxable real property located within the entire fire district as it existed prior to the annexation or incorporation by the city. The resulting quotient shall be multiplied by the fire district's total indebtedness to determine the amount of liability that the city is responsible for paying to the fire district.*
- (c) *Unless otherwise agreed to in writing by the city and the fire district, the city shall pay the entire amount of the proportionate share of the indebtedness to the fire district prior to assuming service in the annexed or newly incorporated territory or shall pay the total amount in equal yearly installments over no more than three (3) consecutive years. The first installment shall be due to the fire district prior to the city assuming the provision of fire services.*
- (d) *If a city meets the requirements of this subsection, the annexed or newly incorporated territory shall be stricken from the boundaries of the fire district, and the fire district shall no longer be authorized to collect any taxes from property owners within the stricken territory.*
- (4) *A city shall cede its primary right to provide fire services to annexed or newly incorporated territory located within a fire district if:*
- (a) *The city does not comply with the requirements of subsection (3) of this section to pay the fire district for the proportionate share of the indebtedness attributable to the annexed or newly incorporated territory;*
 - (b) *The fire district has no indebtedness at the time of the annexation or incorporation, and the fire district and city agree in writing that it is in the best interests of the citizens and property owners within the annexed or incorporated territory to continue to have fire service provided by the fire district. The agreement entered into by the fire district and the city may contain any agreed-upon term, conditions, and limitations; or*
 - (c) *Any circumstance exists where the fire district and city agree in writing that it is more appropriate and beneficial to the citizens and property owners within the territory for the fire district to continue the provision of fire services within the annexed or newly incorporated territory. The agreement*

entered into by the fire district and the city may contain any agreed-upon term, conditions, and limitations.

➔Section 2. KRS 75.010 is amended to read as follows:

~~{(1)—}~~A fire protection district or a volunteer fire department district may be created in accordance with the procedures of KRS 65.182.

~~{(2)—In no event shall any fire protection district or any volunteer fire department district include within its metes and bounds any territory at that time or thereafter included in any city of this Commonwealth which maintains a "regular fire department," and which city has paid its proportionate share of the indebtedness incurred while such territory was a part of that district.}~~

➔Section 3. KRS 75.020 is amended to read as follows:

- (1) (a) The territorial limits of an established fire protection district, or a volunteer fire department district, as established under KRS 75.010 to 75.080, may be enlarged or diminished in the following way: The trustees of the fire protection district or of the volunteer fire department district shall file a petition in the county clerk's office of the county in which that district and the territory to be annexed or stricken off, or the greater part thereof, is located, describing the territory to be annexed or stricken and setting out the reasons therefor. Notice of the filing of such petition shall be given by publication as provided for in KRS Chapter 424. On the day fixed in the notice, the county judge/executive shall, if the proper notice has been given, and the publication made, and no written objection or remonstrance is interposed enter an order annexing or striking off the territory described in the petition. Fifty-one percent (51%) or more of the freeholders of the territory sought to be annexed or stricken off may, at any time before the date fixed in the notice, remonstrate in writing, filed in the clerk's office, to the action proposed. If such written remonstrance is filed, the clerk shall promptly give notice to the trustees of the fire protection district, or of the volunteer fire department district, and the county judge/executive shall hear and determine the same. If upon such hearing, the county judge/executive finds from the evidence that a failure to annex or strike off such territory will materially retard the functioning of the fire protection district or the volunteer fire department district and materially affect adversely the owners and the inhabitants of the territory sought to be annexed or stricken off, he or she shall enter an order, granting the annexation or striking off the territory. In the latter event, no new petition to annex or strike off all or any part of the same territory shall be entertained for a period of two (2) years. Any aggrieved person may bring an action in Circuit Court to contest the decision of the county judge/executive.
 - (b) In addition to the provisions of paragraph (a) of this subsection, if the trustees of a fire protection district or a volunteer fire department district, as established under KRS 75.010 to 75.080, are seeking to expand territory into an area served by a fire department created under KRS Chapter 273, then the trustees shall, prior to executing the provisions of paragraph (a) of this subsection, enter into a written agreement with the fire chief and the board of the fire department created under KRS Chapter 273. The agreement shall establish the proposed new boundary. On the day the agreement is finalized, the trustees of the district shall send by certified mail, return receipt requested, or have personally delivered a copy of the agreement to the county judge/executive of the county containing the territory subject to the expansion. The notice required in paragraph (a) of this subsection shall, in lieu of the applicable publication requirements set out in KRS Chapter 424, be published at least once a week, for a minimum of two (2) weeks. The last publication shall occur no less than seven (7) days before the date fixed in the notice.
 - (c) If the trustees approach the fire chief and board of the fire department created under KRS Chapter 273 in the manner authorized in paragraph (b) of this subsection and are unable to reach an agreement within thirty (30) days, the trustees, or any real property holder of the territory subject to the annexation, may directly seek permission from the real property holders of that territory to continue with the annexation procedure set out in paragraphs (a) and (b) of this subsection by circulating a petition and securing the signatures of at least fifty-one percent (51%) of the real property holders within that territory. The petition shall include the residential address of the signer and the date of the signature. The petition shall be certified by the county clerk if the clerk finds the petition sufficient in form and requisite amount of signatures.
- (2) The property in any territory annexed to a fire protection district or to a volunteer fire department district shall not be liable to taxation for the purpose of paying any indebtedness incurred by the fire protection district or the volunteer fire department district prior to the date of the annexation of such territory, except such indebtedness as represents the balance owing on the purchase price of firefighting equipment. The property in

any territory stricken off from a fire protection district or a volunteer fire department district by the incorporation of or annexation by a city of this Commonwealth shall not be relieved of liability of such taxes as may be necessary to pay its proportionate share of the indebtedness incurred while such territory was a part of that district. Territories stricken by action of the county judge/executive under the provisions of subsection (1) shall be relieved of liability for all indebtedness incurred by the fire protection district or the volunteer fire department district.

- (3) Any city that maintains a "regular fire department," and has either by incorporation or annexation caused property to be stricken from a fire protection district or a volunteer fire department district, shall **comply with subsection (3) of Section 1 of this Act**~~assume the liability of such taxes as may be necessary to pay the proportional share of the indebtedness incurred while such territory was a part of said district.~~
- (4) The territorial limits of two (2) or more fire protection districts, or volunteer fire department districts, as established by KRS 75.010 to 75.080, may be merged into one (1) fire protection district or volunteer fire department district as follows:
 - (a) The trustees of each fire protection district or volunteer fire department district shall file a joint petition in the county clerk's office of the county in which all of the districts and the territory to be merged into one (1) district, or the greater part of the district, is located, describing the territory to be merged into the district and setting out the reasons for the merger;
 - (b) Notice of the filing of the petition shall be given by publication as provided in KRS Chapter 424 for public notices;
 - (c) On the day fixed in the notice, the county judge/executive shall, if proper notice by publication has been given, and no written objection or remonstrance has been made, enter an order merging the fire protection districts or volunteer fire department districts described in the petition;
 - (d) Fifty-one percent (51%) or more of the property owners of the territory sought to be merged into one (1) district may, at any time before the date fixed in the notice, remonstrate by written petition to the county clerk regarding their objection to the merger of the districts. If a petition is filed, the county clerk shall give prompt notice to the trustees of the fire protection districts or the volunteer fire protection districts and the county judge/executive;
 - (e) The county judge/executive shall schedule a hearing regarding the petition and shall give public notice as to the date, time, and place of the hearing. If after the hearing, the county judge/executive finds from the evidence that a failure to merge the territory will materially retard the functioning of the fire protection districts or volunteer fire department districts and materially affect adversely the owners and the inhabitants of the territory sought to be merged, he or she shall enter an order granting the merger of the districts into one (1) fire protection district or volunteer fire department district; and
 - (f) Any aggrieved person may bring an action in Circuit Court to contest the decision of the county judge/executive regarding the merger fire protection districts or volunteer fire department districts.
- (5) The property in any fire protection district or volunteer fire department district which is merged with another fire protection district or volunteer fire department district shall not be liable to taxation for the purpose of paying any indebtedness incurred by the other fire protection district or volunteer fire department district prior to the date of the merger into one (1) fire protection district, except indebtedness which represents a balance owed on the purchase price of firefighting equipment from the other fire protection district or volunteer fire department district.

➔Section 4. KRS 75.040 is amended to read as follows:

- (1) (a) Upon the creation of a fire protection district or a volunteer fire department district as provided in KRS 75.010 to 75.031, the trustees of a district are authorized to establish and operate a fire department and emergency ambulance service as provided in subsection (6) of this section and to levy a tax upon the property in the district. **Property that may be taxed includes**~~including that~~ property within cities in a fire protection district or a volunteer fire department district:~~{-}~~
 1. As provided by **Section 1 of this Act; or**
 2. **Within the metes and bounds of a city that does not maintain a regular fire department as defined by KRS 95.010(3)(b).**

The property taxed shall be subject to county tax, and the tax levied by the district shall not exceed~~{KRS 75.010(2) provided that the property is subject to county tax, and not exceeding}~~ ten cents

(\$0.10) per one hundred dollars (\$100) of valuation as assessed for county taxes, for the purpose of defraying the expenses of the establishment, maintenance, and operation of the fire department or to make contracts for fire protection for the districts as provided in KRS 75.050. The rate set in this subsection shall apply, notwithstanding the provisions of KRS 132.023.

- (b) A fire protection district or a volunteer fire department district that establishes and operates an emergency ambulance service and is the primary service provider in the district may levy a tax upon the property in the district not to exceed twenty cents (\$0.20) per one hundred dollars (\$100) of valuation as assessed for county taxes, for the purpose of defraying the expenses of the establishment, maintenance, and operation of the fire department and emergency ambulance service or to make contracts for fire protection for the districts as provided in KRS 75.050. The rate set in this subsection shall apply, notwithstanding the provisions of KRS 132.023.
- (2) The establishment, maintenance, and operation of a fire protection district or volunteer fire department district shall include, but not be limited to, the following activities:
 - (a) Acquisition and maintenance of adequate fire protection facilities;
 - (b) Acquisition and maintenance of adequate firefighting equipment;
 - (c) Recruitment, training, and supervision of firefighters;
 - (d) Control and extinguishment of fires;
 - (e) Prevention of fires;
 - (f) Conducting fire safety activities;
 - (g) Payment of compensation to firefighters and providing the necessary support and supervisory personnel;
 - (h) Payment for reasonable benefits or a nominal fee to volunteer firefighters when benefits and fees do not constitute wages or salaries under KRS Chapter 337 and are not taxable as income to the volunteer firefighters under Kentucky or federal income tax laws; and
 - (i) The use of fire protection district equipment for activities which are for a public purpose and which do not materially diminish the value of the equipment.
 - (3) The property valuation administrator of the county or counties involved, with the cooperation of the board of trustees, shall note on the tax rolls the taxpayers and valuation of the property subject to such assessment. The county clerk shall compute the tax on the regular state and county tax bills in such manner as may be directed by regulation of the Department of Revenue.
 - (4) Such taxes shall be subject to the same delinquency date, discounts, penalties, and interest as are applied to the collection of ad valorem taxes and shall be collected by the sheriff of the county or counties involved and accounted for to the treasurer of the district. The sheriff shall be entitled to a fee of one percent (1%) of the amount collected by him.
 - (5) Nothing contained in this subsection shall be construed to prevent the trustees of a fire protection district located in a city or county which provides emergency ambulance service from using funds derived from taxes for the purpose of providing supplemental emergency medical services so long as the mayor of the city or the county judge/executive of the county, as appropriate, certifies to the trustees in writing that supplemental emergency medical services are reasonably required in the public interest. For the purposes of this subsection, "supplemental emergency medical services" may include EMT, EMT-D, and paramedic services rendered at the scene of an emergent accident or illness until an emergency ambulance can arrive at the scene.
 - (6) The trustees of those fire protection districts or volunteer fire department districts whose districts or portions thereof do not receive emergency ambulance services from an emergency ambulance service district or, whose districts are not being served by an emergency ambulance service operated or contracted by a city or county government, may develop, maintain, and operate or contract for an emergency ambulance service as part of any fire department created pursuant to this chapter. No taxes levied pursuant to subsection (1) of this section shall be used to develop, maintain, operate, or contract for an emergency ambulance service until the tax year following the year the trustees of the district authorize the establishment of the emergency ambulance service.

Signed by Governor March 19, 2013.

CHAPTER 28

(HB 49)

AN ACT relating to the Kentucky Higher Education Student Loan Corporation educational loan program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 164A.240 is amended to read as follows:

- (1) (a) As used in this section, the term "eligible borrower" means a student, a former student, or the parent of a dependent student or former student, who demonstrates an intention and capacity to repay an educational loan and meets the loan criteria established by the promulgation of administrative regulations by the corporation.
- (b) Notwithstanding KRS 164A.020, with respect to any educational loan made or financed under this section, and any bonds or notes of the corporation to finance educational loans under this section, as used in KRS 164A.010 to 164A.240, the term:
 1. *"Disposable pay" means the amount remaining of a borrower's employment earnings after the deduction of all amounts withheld as required by law.*
 2. "Eligible institution" shall be deemed to include any educational institution approved by the corporation;
 - 3.~~{2}~~ "Eligible lender" shall be deemed to include any financial institution approved by the corporation; and
 - 4.~~{3}~~ "Insured student loan" or "student loan" shall be deemed to include any educational loan.
- (2) (a) In addition to the authority granted by KRS 164A.010 to 164A.240, the corporation is authorized to:
 1. Establish, finance, and operate educational loan programs deemed necessary by the Kentucky Higher Education Assistance Authority to make or cause to be made educational loans to meet the financial needs of eligible borrowers;~~{and}~~
 2. Exercise any of its powers with respect to educational loans pursuant to KRS 164A.010 to KRS 164A.240; *and*
 3. *Establish an administrative garnishment process for the collection of defaulted educational loans and promulgate regulations pursuant to KRS Chapter 13A pertaining to the process. The process shall begin no sooner than one hundred eighty (180) days after the borrower fails to make payments on the debt that has been due and owing. The process shall limit garnishment to no more than ten percent (10%) of the disposable pay of the defaulted borrower and ensure that the borrower's due process rights are protected.*
- (b) The corporation may, in connection with the program, enter into agreements with loan servicing organizations, guarantors, insurers, financial institutions, eligible lenders, and eligible institutions. The educational loan programs may provide for either the making of educational loans to eligible institutions and the relending to eligible borrowers or the making and purchasing of educational loans by the corporation.
- (3) The corporation may promulgate administrative regulations to implement the provisions of KRS 164A.010 to 164A.240.
- (4) The corporation may finance the educational loan programs through the issuance of its bonds or notes subject to the provisions set forth in KRS 164A.010 to 164A.240, except that KRS 164A.080(3) shall not apply to any loans and KRS 164A.160 shall not apply to any bonds or notes issued to fund loans authorized in this section. The proceeds of the bonds or notes used for the educational loan programs may be commingled with the proceeds of bonds or notes financing insured student loans as defined by KRS 164A.020. The bonds or notes issued under the provisions of this subsection shall be special and limited obligations, payable solely and only from the receipts pledged and shall not constitute an indebtedness or liability of the Commonwealth or a pledge of the faith and credit of the Commonwealth.

- (5) The corporation may establish reserve funds or replacement funds in connection with the issuance of bonds and notes for educational loan purposes as determined to be necessary by the board to enable the corporation to accomplish its proper public purposes.
- (6) (a) The maximum annual loan amount shall not exceed:
 1. The costs incurred by the eligible borrower related to attendance less other financial aid, as certified by the eligible institution;
 2. The repayment amount of loans to fund the borrower's cost; or
 3. A lesser amount established by the board.
 (b) The loan proceeds shall be used by the eligible borrower solely for these purposes.
- (7) The corporation may issue taxable bonds or notes for the financing of any program authorized by this chapter.
- (8) The Kentucky Higher Education Assistance Authority shall provide the services as the corporation may require to efficiently carry out the purposes of this section.
- (9) A person under the age of eighteen (18) years shall be deemed to have full capacity to act and shall have all rights, powers, privileges, and obligations of a person of full age for the purpose of applying for, receiving, and repaying educational loans authorized pursuant to this section. Notwithstanding any other statute to the contrary, a repayment obligation imposed by this section shall not be voidable by reason of the age of the recipient at the time of receiving the educational loan.
- (10) The corporation shall establish the interest rates and other terms and conditions for educational loans in a manner that it determines is financially sound. No provision of any other law of the Commonwealth of Kentucky that limits the rate or amount of interest payable on a loan shall apply to an educational loan authorized by this section.
- (11) A loan made pursuant to this section shall be governed by Kentucky law.
- (12) KRS 164.772, KRS 164.774, and KRS 131.565 are applicable to loans made pursuant to this section.

Signed by Governor March 19, 2013.

CHAPTER 29

(HB 60)

AN ACT relating to hunting coyotes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 150.360 is amended to read as follows:

- (1) No person shall take any wildlife, whether protected by this chapter or not, except by trapping, snaring, gig, crossbow, bow and arrow, hook and line, nets, gun, gun and dog, dog, falconry, or as expressly prescribed by regulation.
- (2) Shotguns used in the taking of wildlife, protected or unprotected, shall not be larger than 10-gauge and shall be fired from the shoulder. No wildlife, except deer, protected or unprotected, shall be taken with or by means of any automatic loading or hand-operated repeating shotgun capable of holding more than three (3) shells, the magazine of which has not been cut off or plugged with a one (1) piece filler incapable of removal through the loading end, in such manner as to reduce the capacity of the gun to not more than three (3) shells at one (1) time in the magazine and chamber combined.
- (3) No person shall take or attempt to take any wildlife, protected or unprotected, from an automobile, or other vehicle, unless prescribed by regulation. Boats may be used except as prohibited by state or federal regulation.
- (4) No person shall discharge any firearm, bow and arrow, crossbow or other similar device, upon, over, or across any public roadway.

- (5) No person shall take wildlife, except opossum, raccoon, fishes and frogs, with lights or other means designed to ~~blind wildlife or~~ make wildlife visible at night.
- (6) *Coyotes may be taken at night with or without the use of lights or other means designed to make wildlife visible at night, as established by administrative regulation.*

Signed by Governor March 19, 2013.

CHAPTER 30

(HB 109)

AN ACT relating to athletic trainers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 311.900 is amended to read as follows:

As used in KRS 311.900 to 311.928:

- (1) "Athlete" means an individual, referee, coach, or athletic staff member who participates in sports, games, or recreational activities requiring physical strength, agility, flexibility, range of motion, speed, or stamina, and who is associated with a sport, game, or recreational activity that is conducted in association with an educational institution or professional, amateur, or recreational sports club or organization;
- (2) "Athletic injury" means:
 - (a) An injury or condition, excluding medical conditions such as internal infections, internal injuries, fractures, and spinal cord injuries except in an acute situation sustained by an athlete that affects the individual's participation or performance in sports, games, or recreation; or
 - (b) An injury or condition that is within the scope of practice of an athletic trainer identified by a physician licensed under KRS Chapter 311, a physical therapist licensed under KRS Chapter 327, an occupational therapist licensed under KRS Chapter 319A, or a chiropractor licensed under KRS Chapter 312 that is likely to benefit from athletic training services that have been approved by a physician supervising the athletic trainer;
- (3) "Athletic trainer" means a person with specific qualifications, as set forth in KRS 311.900 to 311.928 who is ~~licensed~~~~certified~~ to practice athletic training and who, upon the supervision of a physician licensed under KRS Chapter 311, carries out the practice of preventing, recognizing, evaluating, managing, disposing, treating, reconditioning, or rehabilitating athletic injuries. In carrying out these functions, the ~~licensed~~~~certified~~ athletic trainer may use physical modalities, such as heat, light, sound, cold, or electricity, or mechanical devices. A ~~licensed~~~~certified~~ athletic trainer shall practice only in those areas in which he or she is competent by reason of his or her training or experience;
- (4) "Council" means the Kentucky Athletic Trainers Advisory Council;
- (5) "Board" means the Kentucky Board of Medical Licensure;
- (6) "Supervising physician" means a physician licensed by the board; and
- (7) "Supervision" means advising, consenting to, and directing the activities of an athletic trainer through written or oral orders by a physician licensed to practice under KRS Chapter 311. Each team of physicians and athletic trainers shall ensure that the referral of athletic injuries is appropriate to the athletic trainer's level of training and experience.

➔Section 2. KRS 311.901 is amended to read as follows:

- (1) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A relating to the ~~licensure~~~~certification~~ and regulation of athletic trainers. The regulations shall include but shall not be limited to the establishment of fees and continuing education requirements. The board shall require, as a part of any continuing educational requirement, that persons ~~licensed~~~~certified~~ as athletic trainers complete an educational course on the transmission, control, treatment, and prevention of the human immunodeficiency

virus and acquired immunodeficiency syndrome. The course on the human immunodeficiency virus shall be approved by the Cabinet for Health and Family Services and shall be given in accordance with KRS 214.610.

- (2) There is hereby created the Kentucky Athletic Trainers Advisory Council, composed of nine (9) members appointed by the Governor. The council shall review and make recommendations to the board regarding all matters relating to athletic trainers that come before the board, including but not limited to:
 - (a) Applications for athletic training *licensure*~~{certifications}~~;
 - (b) *Licensure*~~{Certification}~~ renewal requirements;
 - (c) Approval of supervising physicians;
 - (d) Disciplinary investigations or action, when specifically requested by one (1) of the board's panels established under KRS 311.591; and
 - (e) Promulgation of administrative regulations.
- (3) Except for initial appointments, members of the council shall be appointed by the board for four (4) year terms and shall consist of:
 - (a) Five (5) practicing *licensed*~~{certified}~~ athletic trainers who shall each be selected by the board from a list of three (3) *licensed*~~{certified}~~ athletic trainers submitted by the Kentucky Athletic Trainers Society, Inc. for each vacancy;
 - (b) Two (2) supervising physicians;
 - (c) One (1) member of the board; and
 - (d) One (1) citizen at large.
- (4) The chair of the council shall be elected by a majority vote of the council members and shall preside over meetings. The meetings shall be held quarterly. Additional meetings may be held on the call of the chair or upon the written request of four (4) council members.
- (5) Initial appointments shall be for staggered terms. Three (3) members shall serve a four (4) year term, two (2) members shall serve a three (3) year term, two (2) members shall serve a two (2) year term, and two (2) members shall serve a one (1) year term.
- (6) Members of the council shall not be compensated for their service but shall receive reimbursement for expenditures relating to attendance at committee meetings, consistent with state policies for the reimbursement of travel expenses for state employees.
- (7) A council member may be removed by the board for good cause or if he or she misses two (2) consecutive council meetings without good cause.
- (8) Upon the death, resignation, or removal of any member, the vacancy for the unexpired term shall be filled by the board in the same manner as the original appointment.
- (9) The quorum required for any meeting of the council shall be five (5) members. No action by the council or its members shall have any effect unless a quorum of the council is present at the meeting where the action is taken.
- (10) The board shall not be required to implement or adopt the recommendations of the council.

➔Section 3. KRS 311.903 is amended to read as follows:

A *licensed*~~{certified}~~ athletic trainer:

- (1) Shall not use spinal or pelvic manipulations or spinal or pelvic chiropractic adjustments;
- (2) May dispense, but shall not prescribe, over-the-counter or prescription medications only to an adult athlete and with the supervision of a physician licensed under KRS Chapter 311, and shall maintain accurate records identifying the medication, dose, amount, directions, condition for which the medication is being used, identity of the supervising physician, lot number, and expiration date;
- (3) Shall not dispense over-the-counter or prescription medications to a minor athlete;
- (4) Shall not perform invasive procedures;

- (5) Shall conform to the standard of care required of an ordinary competent and careful ~~licensed~~~~certified~~ athletic trainer in exercising reasonable care for the health and safety of the athlete;
- (6) Shall not work in an industrial setting, except in the capacity of screening injuries and referring patients to an occupational therapist licensed under KRS Chapter 319A, a physical therapist licensed under KRS Chapter 327, a chiropractor licensed under KRS Chapter 312, or a physician licensed under KRS Chapter 311;
- (7) Shall not seek reimbursement from the federal government for physical therapy services performed by an athletic trainer;
- (8) Shall not seek reimbursement from the federal government for occupational therapy services performed by an athletic trainer;
- (9) Shall not seek reimbursement from the federal government for chiropractic services performed by an athletic trainer;
- (10) Shall not prescribe medications, including controlled substances; and
- (11) Shall not independently bill any patient or other payer for services rendered by the athletic trainer.

➔Section 4. KRS 311.905 is amended to read as follows:

- (1) To be ~~licensed~~~~certified~~ by the board as an athletic trainer, an applicant shall:
 - (a) Submit a completed application form with the required fee on a form prescribed by the board;
 - (b) Be of good character and reputation; and
 - (c)
 1. Be certified and in good standing as an athletic trainer by the National Athletic Trainers Association Board of Certification, Inc., or its successor; or
 2. Be authorized to practice as an athletic trainer in another state and be in good standing in that state, if that state has standards equivalent to those of this Commonwealth.
- (2) Any person who is issued initial ~~licensure~~~~certification~~ as an athletic trainer shall be registered for three (3) years, or for the completion of the current three (3) year cycle. The person shall then apply to the board for triennial renewal and shall submit all information requested by the board and pay a renewal fee as prescribed by the board.
- (3) No person shall hold himself or herself out as an athletic trainer or perform any of the activities of an athletic trainer as prescribed in KRS 311.900 to 311.928, without first obtaining a ~~license~~~~certificate~~ under KRS 311.900 to 311.928.
- (4) Nothing in this section shall be construed to limit:
 - (a) The activities, services, and use of title on the part of a person in the employ of the federal government, to the extent the person is operating within the specific parameters of that employment; or
 - (b) The activities or services of a student athletic trainer or someone in a similar educational position, if the service is not for compensation and is carried out under the supervision of a physician and a ~~licensed~~~~certified~~ athletic trainer ~~licensed~~~~certified~~ under KRS 311.900 to 311.928.
- (5) Upon petition to the board, ~~licensed~~~~certified~~ athletic trainers may be granted inactive status for a period of time not to exceed three (3) years. ~~Licensed~~~~Certified~~ athletic trainers shall not practice athletic training while under inactive status. Inactive athletic trainers may apply for an active ~~license~~~~certificate~~ after paying a fee as prescribed in administrative regulations promulgated by the board.
- (6) Persons who are certified by the board and are in good standing as athletic trainers on July 12, 2006, shall be automatically ~~licensed~~~~certified~~ under KRS 311.900 to 311.928 without meeting the requirements of subsection (1) of this section.

➔Section 5. KRS 311.907 is amended to read as follows:

- (1) If the executive director of the board, based upon verified information contained in the application, determines that an applicant is eligible for ~~licensure~~~~certification~~ as an athletic trainer under this section, the executive director may issue to the applicant, on behalf of the board, a temporary ~~license~~~~certificate~~. The temporary ~~license~~~~certificate~~ shall be nonrenewable and shall entitle the holder to practice as an athletic trainer for a maximum of six (6) months from the date of issuance, unless the temporary ~~license~~~~certificate~~ is canceled by the executive director. The executive director may cancel the temporary ~~license~~~~certificate~~:

- (a) At any time, without a hearing, for reasons deemed sufficient after appropriate consultation with the president of the board;
 - (b) Immediately, upon direction by the board; or
 - (c) Upon the board's denial of the holder's application for a regular *license*~~[certificate]~~.
- (2) The executive director shall present to the board the application for *licensure*~~[certification]~~ made by the holder of the temporary *license*~~[certificate]~~. If the board issues a regular *license*~~[certificate]~~ to the holder of a temporary *license*~~[certificate]~~, the fee paid in connection with the temporary *license*~~[certificate]~~ shall be applied to the regular *license*~~[certificate]~~ fee.
- (3) If the executive director cancels a temporary *license*~~[certificate]~~, he or she shall promptly notify, by United States certified mail, the holder of the temporary *license*~~[certificate]~~ at the last known address on file with the board. The temporary *license*~~[certificate]~~ shall be terminated and of no further force or effect three (3) days after the date the notice was sent by certified mail.

➔ Section 6. KRS 311.909 is amended to read as follows:

- (1) The board may revoke, suspend, deny, decline to renew, limit, or restrict the *license*~~[certification]~~ of an athletic trainer or may impose fines of not less than one hundred dollars (\$100) and not more than five thousand dollars (\$5,000) per violation, including the costs of any proceedings; reprimand; or place an athletic trainer on probation for no more than five (5) years upon proof that the athletic trainer:
- (a) Knowingly made or presented, or caused to be made or presented, any false, fraudulent, or forged statement, writing, certificate, diploma, or other document relating to an application for *licensure*~~[certification]~~ or renewal thereof;
 - (b) Practiced or aided or abetted in the practice of fraud, forgery, deception, collusion, or conspiracy relating to an examination for *licensure*~~[certification]~~;
 - (c) Has been convicted by any court of a misdemeanor offense involving moral turpitude or convicted of an act that is or would be a felony under the laws of the Commonwealth of Kentucky or of the United States;
 - (d) Has become addicted to or is an abuser of alcohol, drugs, or any illegal substances;
 - (e) Developed a physical or mental disability or other condition that presents a danger in continuing to provide athletic training services to patients, the public, or other health-care personnel;
 - (f) Knowingly made, caused to be made, or aided or abetted in the making of a false statement in any document executed in connection with the practice of athletic training;
 - (g) Performed any act or service as an athletic trainer without proper supervision by a licensed physician;
 - (h) Exceeded the scope of medical services or procedures described by the supervising physician in the application required under KRS 311.903;
 - (i) Aided, assisted, or abetted another in the unlawful practice of medicine, osteopathy, chiropractics, or any healing art, including the unlawful practice of athletic training;
 - (j) Willfully violated a confidential communication;
 - (k) Performed the services of an athletic trainer in an unprofessional, incompetent, or grossly or chronically negligent manner;
 - (l) Has been removed, suspended, expelled, or placed on probation by any health-care facility for unprofessional conduct, incompetence, negligence, or violation of any provision of KRS 311.900 to 311.928;
 - (m) Violated any applicable provision of an administrative regulation relating to athletic training practice;
 - (n) Violated any term of probation or other disciplinary order issued by the board or an agreed order defined in KRS 311.550;
 - (o) Failed to complete the required number of hours of approved continuing education; or
 - (p) Willfully violated any provision of KRS 311.900 to 311.928 or acted outside of the *licensed*~~[certified]~~ athletic trainer's scope of practice.

- (2) All disciplinary proceedings against an athletic trainer shall be conducted in accordance with the provisions of KRS 311.591, 311.592, 311.593, and 311.599; KRS Chapter 13B; and any related administrative regulations promulgated under KRS Chapter 311, except that the provisions which apply to physicians shall apply to athletic trainers.
- (3) Notwithstanding any of the requirements for ~~licensure~~~~[certification]~~ established by KRS 311.900 to 311.928, the board, after providing the applicant with reasonable notice of its intended action and a reasonable opportunity to be heard, may deny ~~licensure~~~~[certification]~~ to an applicant without a prior evidentiary hearing upon a finding that the applicant has violated any provisions of KRS 311.900 to 311.928 or is otherwise unfit to practice. Orders denying ~~licensure~~~~[certification]~~ may be appealed pursuant to KRS 311.593.
- (4) The board may impose restrictions on the scope of practice of an athletic trainer after providing the applicant with reasonable notice of its intended action and a reasonable opportunity to be heard. The Athletic Trainers Advisory Council may make recommendations on such restrictions.
- (5) The provisions of this chapter shall not be construed as preventing or restricting the practices, services, or activities of a person licensed in accordance with the provisions of another law of the Commonwealth from engaging in the profession or occupation for which he or she is licensed.

➔Section 7. KRS 311.911 is amended to read as follows:

- (1) At any time when an inquiry panel established under KRS 311.591 has probable cause to believe that an athletic trainer has violated the terms of an agreed order as defined in KRS 311.550 or a disciplinary order, or that an athletic trainer's practice constitutes a danger to the health, welfare, or safety of his or her patients or the general public, the inquiry panel may issue an emergency order in accordance with KRS 13B.125 suspending, limiting, or restricting the athletic trainer's ~~license~~~~[certification]~~.
- (2) For the purposes of a hearing conducted under KRS 13B.125 on an emergency order issued under this section, the findings of fact in the emergency order shall constitute a rebuttable presumption of a violation of law that constitutes immediate danger to the health, welfare, or safety of patients or the general public. For the purposes of this hearing only, hearsay shall be admissible and may serve as a basis of the board's findings.
- (3) An emergency order as described in subsection (1) of this section shall not be issued unless grounds exist for the issuance of a complaint. The inquiry panel shall issue a complaint prior to the date of the emergency hearing or the emergency order shall become void.
- (4) An order of temporary suspension, restriction, or limitation shall not be maintained after a final order as defined in KRS 311.550 is served on the charged athletic trainer pursuant to the proceeding on the complaint. An appeal of an emergency order shall not prejudice the board from proceeding with the complaint.

➔Section 8. KRS 160.445 is amended to read as follows:

- (1) (a) The Kentucky Board of Education or organization or agency designated by the board to manage interscholastic athletics shall require each interscholastic coach to complete a sports safety course consisting of training on how to prevent common injuries. The content of the course shall include but not be limited to emergency planning, heat and cold illnesses, emergency recognition, head injuries including concussions, neck injuries, facial injuries, and principles of first aid. The course shall also be focused on safety education and shall not include coaching principles.
- (b) The state board or its agency shall:
 1. Establish a minimum timeline for a coach to complete the course;
 2. Approve providers of a sports safety course;
 3. Be responsible for ensuring that an approved course is taught by qualified professionals who shall either be ~~certified~~ athletic trainers, registered nurses, physicians, or physician's assistants licensed to practice in Kentucky; and
 4. Establish the minimum qualifying score for successful course completion.
- (c) A course shall be reviewed for updates at least once every thirty (30) months and revised if needed.
- (d) A course shall be able to be completed through hands-on or online teaching methods in ten (10) clock hours or less.
- (e) 1. A course shall include an end-of-course examination with a minimum qualifying score for successful course completion established by the board or its agency.

2. All coaches shall be required to take the end-of-course examination and shall obtain at least the minimum qualifying score.
 - (f) Beginning with the 2009-2010 school year, and each year thereafter, at least one (1) person who has completed the course shall be at every interscholastic athletic practice and competition.
- (2) (a) Beginning with the 2012-2013 school year, and each year thereafter, the state board or its agency shall require each interscholastic coach to complete training on how to recognize the symptoms of a concussion and how to seek proper medical treatment for a person suspected of having a concussion. The training shall be approved by the state board or its agency and may be included in the sports safety course required under subsection (1)(a) of this section.
 - (b) The board or its agency shall develop guidelines and other pertinent information or adopt materials produced by other agencies to inform and educate student athletes and their parents or legal guardians of the nature and risk of concussion and head injury, including the continuance of play after concussion or head injury. Any required physical examination and parental authorization shall include acknowledgement of the education information required under this paragraph.
 - (c) Upon request, the board or its agency shall make available to the public any training materials developed by the board or agency used to satisfy the requirements of paragraph (a) of this subsection. The board or its agency shall not be held liable for the use of any training materials so disseminated.
- (3) (a) A student athlete suspected by an interscholastic coach, school athletic personnel, or contest official of sustaining a concussion during an athletic practice or competition shall be removed from play at that time and shall not return to play prior to the ending of the practice or competition until the athlete is evaluated to determine if a concussion has occurred. The evaluation shall be completed by a physician or a licensed health care provider whose scope of practice and training includes the evaluation and management of concussions and other brain injuries. A student athlete shall not return to play on the date of a suspected concussion absent the required evaluation.
 - (b) A student athlete may return to play if it is determined no concussion has occurred.
 - (c) A student athlete deemed to be concussed shall not return to participate in any athletic practice or competition occurring on the day of the injury. The injured student athlete shall not be allowed to participate in any subsequent practice or athletic competition unless written clearance from a physician is provided.
- (4) (a) The state board or its agency shall adopt rules governing interscholastic athletics conducted by local boards of education to require each school that participates in interscholastic athletics to develop a venue-specific emergency action plan to deal with serious injuries and acute medical conditions in which the condition of the patient may deteriorate rapidly. The plan shall:
 1. Include a delineation of role, methods of communication, available emergency equipment, and access to and plan for emergency transport; and
 2. Be in writing, reviewed by the principal of the school, distributed to all appropriate personnel, posted conspicuously at all venues, and reviewed and rehearsed annually by all licensed athletic trainers, first responders, coaches, school nurses, athletic directors, and volunteers for interscholastic athletics.
 - (b) Each school shall submit annual written verification of the existence of a venue-specific emergency action plan to the state board or its agency.
- (5) Each school shall maintain complete and accurate records of its compliance with this section and shall make the records available for review by the state board or its agency upon request.

➔Section 9. KRS 319B.090 is amended to read as follows:

Nothing in this chapter or in the administrative regulations promulgated by the board pursuant to this chapter shall be interpreted to limit or restrict:

- (1) A licensed health care practitioner or provider from engaging in the full scope of practice authorized by the license for that person's profession, training, or services;
- (2) A person licensed as a physical therapist under KRS Chapter 327 or as an occupational therapist under KRS Chapter 319A from engaging in that person's profession pursuant to his or her education and training;

- (3) A person ~~licensed~~^{certified} as an athletic trainer under KRS Chapter 311 from engaging in that person's profession pursuant to his or her education and training;
- (4) A person licensed as a physician under KRS Chapter 311 from engaging in that person's profession pursuant to his or her education and training;
- (5) A person licensed as a chiropractor under KRS Chapter 312 from engaging in that person's profession pursuant to his or her education and training;
- (6) A person licensed as a pharmacist under KRS Chapter 315 from engaging in that person's profession pursuant to his or her education and training;
- (7) A person certified as a therapeutic shoe fitter by a nationally recognized board from engaging in that person's profession pursuant to his or her education and training and within that person's scope of practice as defined by the certifying board;
- (8) Individuals acting under the supervision and control of a licensed pharmacist or pharmacy from measuring, fitting, or adjusting any noncustom fabricated and fitted device including but not limited to over-the-counter devices, so long as such individual does not create a cast, mold, or scan of a part of the human body for the purpose of constructing a medical device to treat a patient's medical condition, and so long as such individual meets one (1) of the following criteria for the device:
 - (a) Documented training from a manufacturer or training from a licensed or certified orthotist, prosthetist, or pedorthist;
 - (b) Certification or registration as a fitter of orthotic, prosthetic, or pedorthic devices from a nationally recognized board or association such as the Board of Certification/Accreditation, International (BOC), the National Community Pharmacists Association (NCPA), or the American Board for Certification in Orthotics, Prosthetics and Pedorthics, Inc. (ABC); or
 - (c) Direct supervision by a trained and experienced, or certified, or registered, fitter of orthotic, prosthetic, or pedorthic devices; or
- (9) Individuals acting under the supervision and control of a licensed pharmacist or pharmacy from measuring, fitting, or adjusting any noncustom fabricated and fitted pedorthic devices including but not limited to diabetic shoes, so long as the individual meets the criteria of either subsection (8)(a) or (8)(b) of this section, and so long as the individual does not create a cast, mold, or scan of a part of the human body for the purpose of constructing a medical device to treat a patient's medical problem.

Signed by Governor March 19, 2013.

CHAPTER 31

(HB 162)

AN ACT relating to elevator inspections and licensure.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 198B.400 is amended to read as follows:

As used in KRS ~~198B.400~~^{198B.410} to 198B.540, unless the context otherwise requires:

- (1) "Elevator" means all the machinery, construction, apparatus, and equipment used in raising and lowering a car, cage, or platform vertically between permanent rails or guides, and includes all elevators, power dumbwaiters, escalators, gravity elevators, and other lifting or lowering apparatus permanently installed between rails or guides, but does not include hand operated dumbwaiters, manlifts of the platform type with a platform area not exceeding nine hundred square inches, construction hoists, or other similar temporary lifting or lowering apparatus;
- (2) "Passenger elevator" means an elevator that is designed to carry persons to its contract capacity;
- (3) "Freight elevator" means an elevator used for carrying freight and on which only the operator, by the permission of the employer, is allowed to ride;

- (4) "General inspector" means a state inspector examined and hired to inspect elevators for the Department of Housing, Buildings and Construction;
- (5) "Special inspector" means an inspector examined and certified by the department to inspect elevators in the state;
- (6) "Inspector" means either a general or special inspector;
- (7) "Department" means the Department of Housing, Buildings and Construction;
- (8) "Certificate of operation" is a certificate issued by the department authorizing the operation of an elevator which ~~shall~~~~must~~ be conspicuously posted on the elevator at all times;
- (9) "Escalator" means a moving stairway consisting of steps attached to a continuously circulating belt that is used to move persons from one (1) level to another;
- (10) "Moving sidewalk" means horizontal flat panels attached to a continuously circulating belt used to move people;
- (11) "Fixed guideway system" means any nonrail system, funicular, or automated people mover, either air-suspended or wheeled, that is not regulated by the Federal Transit Administration;
- (12) "Mine elevator" means an elevator permanently installed in a mine shaft to provide vertical transportation of mine personnel, their tools, equipment, and mine supplies;
- (13) "Stage elevator" means a section of a stage arranged to be raised and lowered above and below the stage in a vertical direction;
- (14) "Orchestra elevator" means a platform used for raising and lowering musicians in an orchestra in a vertical direction;
- (15) "Organ console elevator" means a mechanism used for raising and lowering an organ console, including the organist, in a vertical direction;
- (16) "Material lift" means a hoisting and lowering mechanism equipped with a car that moves within a guide system installed at an angle of greater than seventy (70) degrees from the horizontal, serving two (2) or more landings, for the purpose of transporting materials that are manually or automatically loaded or unloaded. A person shall not ride on a material lift;
- (17) "Committee" means the Elevator Advisory Committee;
- (18) "Elevator contractor" means any sole proprietor, partnership, or corporation possessing an elevator contractor license issued by the department and who is engaged in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining elevators or fixed guideway systems;
- (19) "Elevator mechanic" means any person who:
 - (a) Possesses an elevator mechanic license issued by the department;
 - (b) Is employed by an elevator contractor; and
 - (c) Is engaged in erecting, constructing, installing, altering, servicing, repairing, or maintaining elevators or fixed guideway systems;
- (20) "Elevator helper" or "elevator apprentice" means any person who works under the general supervision of a licensed elevator mechanic. An elevator helper or elevator apprentice is not subject to licensure;
- (21) "Commissioner" means the commissioner of the Department of Housing, Buildings and Construction;
- (22) "Direct and immediate supervision" means that the licensed supervising authority is on site. The supervisor is not required to have actual or direct sight of the person being directly supervised;~~and~~
- (23) "General supervision" means that the supervising authority oversees the work performed overall but is not required to be on-site at all times during work relating to elevators or fixed guideway systems;
- (24) ***"Accessibility and residential elevator mechanic" means any person who:***
 - (a) ***Possesses an accessibility and residential elevator mechanic license issued by the department;***
 - (b) ***Is employed by an elevator contractor; and***

- (c) *Is engaged in erecting, constructing, installing, altering, servicing, repairing, or maintaining accessibility lifts and private residential elevators;*
- (25) *"Accessibility lift" means a hoisting and lowering mechanism, that moves within a guide system, serving two (2) or more landings, for the purpose of transporting a person; and*
- (26) *"Private residential elevator" means a passenger elevator installed within a structure subject to the Kentucky Residential Code as established in 815 KAR 7:125, but shall not be shared by units if installed in a multifamily dwelling.*

➔Section 2. KRS 198B.4013 is amended to read as follows:

- (1) An application for licensure as an elevator mechanic shall contain the following:
- (a) Name;
 - (b) Residential address;
 - (c) Name and address of the applicant's employer, if employed;
 - (d) The number of years the applicant has engaged in the business of installing, maintaining, or servicing elevators or fixed guideway systems;~~and~~
 - (e) *The types of elevators or fixed guideway systems the applicant installed, maintained, or serviced during the applicant's years of experience;*
 - (f) *Identification of the type of license, whether an elevator mechanic license or an accessibility and residential elevator mechanic license, sought by the applicant; and*
 - (g) Upon request by the department, supplemental documentation of information required by this section.
- (2) An applicant for an elevator mechanic license *or an accessibility and residential elevator mechanic license* shall demonstrate one (1) or more of the following to be eligible for licensure:
- (a)
 1. Proof the applicant *for an elevator mechanic license* has not less than thirty-six (36) months of work experience in the elevator industry, in construction, maintenance, service, repair, or any combination of these activities as verified by current and previous employers, or equivalent experience while serving in the United States military services; and
 2. Passage of a written, oral, or computerized examination administered by the department *or the department's designee* based upon the most recent referenced codes and standards *for full licensure*;
 - (b)
 1. *Proof the applicant for an accessibility and residential elevator mechanic license has not less than twelve (12) months of work experience in the elevator industry, in construction, maintenance, service, repair, or any combination of the activities verified by current and previous employers, or equivalent experience while serving in the United States military services; and*
 2. *Passage of a written, oral, or computerized examination administered by the department or the department's designee based upon the most recent referenced codes and standards for the accessibility and residential elevator mechanic license the applicant seeks;*
 - (c) Proof the applicant has worked without direct and immediate supervision as an elevator constructor, maintenance, or repair person for not less than three (3) years immediately prior to July 1, 2011;~~and~~
 2. ~~Submission of an application for licensure within one (1) year after July 1, 2011;~~
 - (d)~~(e)~~ Certificate of completion from a nationally recognized training program for the elevator industry such as the National Elevator Industry Educational Program, National Association of Elevator Contractors, or an equivalent program approved by the commissioner *for elevator mechanic licensure*;~~or~~
 - (e) *For accessibility and residential elevator mechanic licensure, a certificate of completion from a nationally recognized training program specifically designed for the accessibility and private residence lift, such as the National Association of Elevator Contractors, or an equivalent program approved by the commissioner; or*

- ~~(f)(4)~~
1. Certificate of completion of an apprenticeship program for elevator mechanics, having standards substantially equal to those of KRS 198B.400 to 198B.540; and
 2. Proof of registration with the Bureau of Apprenticeship and Training, United States Department of Labor, or a state apprenticeship council.

Signed by Governor March 19, 2013.

CHAPTER 32

(HB 167)

AN ACT relating to defense and security of the homeland and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 39G IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Intelligence Fusion Center is created within the Kentucky Office of Homeland Security to improve intelligence sharing among public safety and public service agencies at the federal, state, and local levels, as well as the private sector.*
- (2) *The Kentucky Intelligence Fusion Center shall be a collaboration between the Kentucky Office of Homeland Security and federal, state, and local agencies, as well as the private sector, including but not limited to those with the primary purpose of law enforcement, public safety, public protection, infrastructure protection, public transit, and corrections.*

➔Section 2. KRS 39G.010 is amended to read as follows:

- (1) The Kentucky Office of Homeland Security shall be attached to the Office of the Governor and shall be headed by an executive director appointed by the Governor.
- (2) The executive director shall:
 - (a) Publicize the findings of the General Assembly stressing the dependence on Almighty God as being vital to the security of the Commonwealth by including the provisions of KRS 39A.285(3) in its agency training and educational materials. The executive director shall also be responsible for prominently displaying a permanent plaque at the entrance to the state's Emergency Operations Center stating the text of KRS 39A.285(3);
 - (b) Establish and chair an interagency working group composed of the chair of the Senate Veterans, Military Affairs, and Public Protection Committee, the chair of the House of Representatives Seniors, Military Affairs, and Public Safety Committee, state agency representation, and private agency representation. The working group shall have the purpose of identifying risks and needs and making a complete assessment of the preparedness of the Commonwealth to respond to acts of war or terrorism, including nuclear, biological, chemical, electromagnetic pulse, agro-, eco-, or cyber-terrorism;
 - (c) Serve as the State Appointed Administrator for the United States Department of Homeland Security;
 - (d) Implement all homeland security presidential and gubernatorial directives, including directives pertaining to state and local compliance with the National Incident Management System;
 - (e) Coordinate the efforts of the Kentucky Office of Homeland Security with the efforts of the federal Department of Homeland Security;
 - (f) Accept and allocate any homeland security funds in compliance with applicable federal and state laws and administrative regulations; and
 - (g) Inform the members of the General Assembly of the process by which a public agency applies for a federal homeland security grant and shall provide the following information to the members at least ninety (90) days before an application deadline:
 1. The application deadline;
 2. How a public agency can obtain an application form;

3. How a public agency can obtain assistance in filling out an application form; and
 4. Any other information that would be helpful to a public agency interested in applying for a federal homeland security grant.
- (3) The executive director may delegate responsibilities created under this section to another executive branch agency.
- (4) The Kentucky Office of Homeland Security shall:
- (a) Develop and publish a comprehensive statewide homeland security strategy that coordinates state and local efforts to detect, deter, mitigate, and respond to a terrorist incident;
 - (b) Develop a comprehensive strategy addressing how state and federal funds and other assistance will be allocated within the state to purchase specialized equipment required to prevent and respond effectively and safely to terrorist incidents;
 - (c) Urge the state and local governments to exceed minimum federal requirements for receiving assistance in preparing to respond to acts of war or terrorism in the hope that the Commonwealth will become a national leader in this preparation;
 - (d) Provide information explaining how individuals and private organizations, including volunteer and religious organizations, can best prepare for and respond to incidents contemplated by this section and to other threatened, impending, or declared emergencies and whom to contact should they desire to volunteer help or services during such an emergency. The program shall identify and encourage these private organizations to specifically commit to provide food, shelter, personnel, equipment, materials, consultation, and advice, or other services needed to respond to these incidents;
 - (e) *Administer the Kentucky Intelligence Fusion Center and coordinate its operations with other federal, state, and local agencies;* and
- ~~(f)~~ Promulgate any administrative regulations necessary to carry out the provisions of this chapter.
- (5) The adjutant general, or his or her designee, shall concurrently notify the Governor and the executive director of the Office of Homeland Security of a disaster or emergency involving homeland security. The adjutant general, or his or her designee, shall be the Governor's primary point of contact for managing and responding to a disaster or emergency involving homeland security.

➔Section 3. KRS 61.878 is amended to read as follows:

- (1) The following public records are excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction, except that no court shall authorize the inspection by any party of any materials pertaining to civil litigation beyond that which is provided by the Rules of Civil Procedure governing pretrial discovery:
- (a) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy;
 - (b) Records confidentially disclosed to an agency and compiled and maintained for scientific research. This exemption shall not, however, apply to records the disclosure or publication of which is directed by another statute;
 - (c)
 1. Upon and after July 15, 1992, records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records;
 2. Upon and after July 15, 1992, records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which are compiled and maintained:
 - a. In conjunction with an application for or the administration of a loan or grant;
 - b. In conjunction with an application for or the administration of assessments, incentives, inducements, and tax credits as described in KRS Chapter 154;
 - c. In conjunction with the regulation of commercial enterprise, including mineral exploration records, unpatented, secret commercially valuable plans, appliances, formulae, or

processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person; or

- d. For the grant or review of a license to do business.
3. The exemptions provided for in subparagraphs 1. and 2. of this paragraph shall not apply to records the disclosure or publication of which is directed by another statute;
 - (d) Public records pertaining to a prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the Commonwealth. This exemption shall not include those records pertaining to application to agencies for permits or licenses necessary to do business or to expand business operations within the state, except as provided in paragraph (c) of this subsection;
 - (e) Public records which are developed by an agency in conjunction with the regulation or supervision of financial institutions, including but not limited to, banks, savings and loan associations, and credit unions, which disclose the agency's internal examining or audit criteria and related analytical methods;
 - (f) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made by or for a public agency relative to acquisition of property, until such time as all of the property has been acquired. The law of eminent domain shall not be affected by this provision;
 - (g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination before the exam is given or if it is to be given again;
 - (h) Records of law enforcement agencies or agencies involved in administrative adjudication that were compiled in the process of detecting and investigating statutory or regulatory violations if the disclosure of the information would harm the agency by revealing the identity of informants not otherwise known or by premature release of information to be used in a prospective law enforcement action or administrative adjudication. Unless exempted by other provisions of KRS 61.870 to 61.884, public records exempted under this provision shall be open after enforcement action is completed or a decision is made to take no action; however, records or information compiled and maintained by county attorneys or Commonwealth's attorneys pertaining to criminal investigations or criminal litigation shall be exempted from the provisions of KRS 61.870 to 61.884 and shall remain exempted after enforcement action, including litigation, is completed or a decision is made to take no action. The exemptions provided by this subsection shall not be used by the custodian of the records to delay or impede the exercise of rights granted by KRS 61.870 to 61.884;
 - (i) Preliminary drafts, notes, correspondence with private individuals, other than correspondence which is intended to give notice of final action of a public agency;
 - (j) Preliminary recommendations, and preliminary memoranda in which opinions are expressed or policies formulated or recommended;
 - (k) All public records or information the disclosure of which is prohibited by federal law or regulation;
 - (l) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly;
 - (m) 1. Public records the disclosure of which would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act and limited to:
 - a. Criticality lists resulting from consequence assessments;
 - b. Vulnerability assessments;
 - c. Antiterrorism protective measures and plans;
 - d. Counterterrorism measures and plans;
 - e. Security and response needs assessments;
 - f. Infrastructure records that expose a vulnerability referred to in this subparagraph through the disclosure of the location, configuration, or security of critical systems, including public utility critical systems. These critical systems shall include but not be limited to

information technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage, and gas systems;

- g. The following records when their disclosure will expose a vulnerability referred to in this subparagraph: detailed drawings, schematics, maps, or specifications of structural elements, floor plans, and operating, utility, or security systems of any building or facility owned, occupied, leased, or maintained by a public agency; and
 - h. Records when their disclosure will expose a vulnerability referred to in this subparagraph and that describe the exact physical location of hazardous chemical, radiological, or biological materials.
2. As used in this paragraph, "terrorist act" means a criminal act intended to:
 - a. Intimidate or coerce a public agency or all or part of the civilian population;
 - b. Disrupt a system identified in subparagraph 1.f. of this paragraph; or
 - c. Cause massive destruction to a building or facility owned, occupied, leased, or maintained by a public agency.
 3. On the same day that a public agency denies a request to inspect a public record for a reason identified in this paragraph, that public agency shall forward a copy of the written denial of the request, referred to in KRS 61.880(1), to the executive director of the **Kentucky Office of Homeland Security** ~~for~~ ~~Coordination~~ and the Attorney General.
 4. Nothing in this paragraph shall affect the obligations of a public agency with respect to disclosure and availability of public records under state environmental, health, and safety programs.
 5. The exemption established in this paragraph shall not apply when a member of the Kentucky General Assembly seeks to inspect a public record identified in this paragraph under the Open Records Law; and
- (n) Public or private records, including books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software, or other documentation regardless of physical form or characteristics, having historic, literary, artistic, or commemorative value accepted by the archivist of a public university, museum, or government depository from a donor or depositor other than a public agency. This exemption shall apply to the extent that nondisclosure is requested in writing by the donor or depositor of such records, but shall not apply to records the disclosure or publication of which is mandated by another statute or by federal law.
- (2) No exemption in this section shall be construed to prohibit disclosure of statistical information not descriptive of any readily identifiable person.
 - (3) No exemption in this section shall be construed to deny, abridge, or impede the right of a public agency employee, including university employees, an applicant for employment, or an eligible on a register to inspect and to copy any record including preliminary and other supporting documentation that relates to him. The records shall include, but not be limited to, work plans, job performance, demotions, evaluations, promotions, compensation, classification, reallocation, transfers, lay-offs, disciplinary actions, examination scores, and preliminary and other supporting documentation. A public agency employee, including university employees, applicant, or eligible shall not have the right to inspect or to copy any examination or any documents relating to ongoing criminal or administrative investigations by an agency.
 - (4) If any public record contains material which is not excepted under this section, the public agency shall separate the excepted and make the nonexcepted material available for examination.
 - (5) The provisions of this section shall in no way prohibit or limit the exchange of public records or the sharing of information between public agencies when the exchange is serving a legitimate governmental need or is necessary in the performance of a legitimate government function.

➔Section 4. The General Assembly hereby confirms Executive Order 2012-418, dated June 18, 2012, relating to the creation of the Kentucky Intelligence Fusion Center, to the extent it is not otherwise confirmed by this Act, this executive order having been made by the Governor under the powers and authorities granted to the Governor by Sections 69 and 81 of the Constitution of Kentucky and KRS 12.028.

➔Section 5. KRS 237.110 is amended to read as follows:

- (1) The Department of Kentucky State Police is authorized to issue and renew licenses to carry concealed firearms or other deadly weapons, or a combination thereof, to persons qualified as provided in this section.
- (2) An original or renewal license issued pursuant to this section shall:
 - (a) Be valid throughout the Commonwealth and, except as provided in this section or other specific section of the Kentucky Revised Statutes or federal law, permit the holder of the license to carry firearms, ammunition, or other deadly weapons, or a combination thereof, at any location in the Commonwealth;
 - (b) Unless revoked as provided by law, be valid for a period of five (5) years from the date of issuance;
 - (c) Authorize the holder of the license to carry a concealed firearm or other deadly weapon, or a combination thereof, on or about his or her person; and
 - (d) Authorize the holder of the license to carry ammunition for a firearm on or about his or her person.
- (3) Prior to the issuance of an original or renewal license to carry a concealed deadly weapon, the Department of Kentucky State Police shall conduct a background check to ascertain whether the applicant is eligible under 18 U.S.C. sec. 922(g) and (n), any other applicable federal law, and state law to purchase, receive, or possess a firearm or ammunition, or both. The background check shall include:
 - (a) A state records check covering the items specified in this subsection, together with any other requirements of this section;
 - (b) A federal records check, which shall include a National Instant Criminal Background Check System (NICS) check;
 - (c) A federal Immigration Alien Query if the person is an alien who has been lawfully admitted to the United States by the United States government or an agency thereof; and
 - (d) In addition to the Immigration Alien Query, if the applicant has not been lawfully admitted to the United States under permanent resident status, the Department of Kentucky State Police shall, if a doubt exists relating to an alien's eligibility to purchase a firearm, consult with the United States Department of Homeland Security, United States Department of Justice, United States Department of State, or other federal agency to confirm whether the alien is eligible to purchase a firearm in the United States, bring a firearm into the United States, or possess a firearm in the United States under federal law.
- (4) The Department of Kentucky State Police shall issue an original or renewal license if the applicant:
 - (a) Is not prohibited from the purchase, receipt, or possession of firearms, ammunition, or both pursuant to 18 U.S.C. 922(g), 18 U.S.C. 922(n), or applicable federal or state law;
 - (b)
 1. Is a citizen of the United States who is a resident of this Commonwealth and has been a resident for six (6) months or longer immediately preceding the filing of the application;
 2. Is a citizen of the United States who is a member of the Armed Forces of the United States who is on active duty, who is at the time of application assigned to a military posting in Kentucky, and who has been assigned to a posting in the Commonwealth for six (6) months or longer immediately preceding the filing of the application;
 3. Is lawfully admitted to the United States by the United States government or an agency thereof, is permitted by federal law to purchase a firearm, and has been a resident of this Commonwealth for six (6) months or longer immediately preceding the filing of the application; or
 4. Is lawfully admitted to the United States by the United States government or an agency thereof, is permitted by federal law to purchase a firearm, is, at the time of the application, assigned to a military posting in Kentucky, and has been assigned to a posting in the Commonwealth for six (6) months or longer immediately preceding the filing of the application;
 - (c) Is twenty-one (21) years of age or older;
 - (d) Has not been committed to a state or federal facility for the abuse of a controlled substance or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating to controlled substances, within a three (3) year period immediately preceding the date on which the application is submitted;
 - (e) Does not chronically and habitually use alcoholic beverages as evidenced by the applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) years immediately preceding

the date on which the application is submitted, or having been committed as an alcoholic pursuant to KRS Chapter 222 or similar laws of another state within the three (3) year period immediately preceding the date on which the application is submitted;

- (f) Does not owe a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment, if the Department of Kentucky State Police has been notified of the arrearage by the Cabinet for Health and Family Services;
 - (g) Has complied with any subpoena or warrant relating to child support or paternity proceedings. If the Department of Kentucky State Police has not been notified by the Cabinet for Health and Family Services that the applicant has failed to meet this requirement, the Department of Kentucky State Police shall assume that paternity and child support proceedings are not an issue;
 - (h) Has not been convicted of a violation of KRS 508.030 or 508.080 within the three (3) years immediately preceding the date on which the application is submitted. The commissioner of the Department of Kentucky State Police may waive this requirement upon good cause shown and a determination that the applicant is not a danger and that a waiver would not violate federal law; and
 - (i) Demonstrates competence with a firearm by successful completion of a firearms safety course offered or approved by the Department of Criminal Justice Training. The firearms safety course shall:
 - 1. Be not more than eight (8) hours in length;
 - 2. Include instruction on handguns, the safe use of handguns, the care and cleaning of handguns, and handgun marksmanship principles;
 - 3. Include actual range firing of a handgun in a safe manner, and the firing of not more than twenty (20) rounds at a full-size silhouette target, during which firing, not less than eleven (11) rounds must hit the silhouette portion of the target; and
 - 4. Include information on and a copy of laws relating to possession and carrying of firearms, as set forth in KRS Chapters 237 and 527, and the laws relating to the use of force, as set forth in KRS Chapter 503.
- (5) (a) A legible photocopy of the certificate of completion issued by the Department of Criminal Justice Training shall constitute evidence of qualification under subsection (4)(i) of this section.
- (b) *Persons qualifying under subsection (6)(c) of this section may submit with their application at least one (1) of the following forms or their successor forms showing evidence of handgun training or handgun qualifications:*
- 1. *Department of Defense Form DD 2586;*
 - 2. *Department of Defense Form DD 214;*
 - 3. *Coast Guard Form CG 3029;*
 - 4. *Department of the Army Form DA 88-R;*
 - 5. *Department of the Army Form DA 5704-R;*
 - 6. *Department of the Navy Form OPNAV 3591-1; or*
 - 7. *Department of the Air Force Form AF 522.*
- (6) (a) Peace officers who are currently certified as peace officers by the Kentucky Law Enforcement Council pursuant to KRS 15.380 to 15.404 and peace officers who are retired and are members of the Kentucky Employees Retirement System, State Police Retirement System, or County Employees Retirement System or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be deemed to have met the training requirement.
- (b) Current and retired peace officers of the following federal agencies shall be deemed to have met the training requirement:
- 1. Any peace officer employed by a federal agency specified in KRS 61.365;
 - 2. Any peace officer employed by a federal civilian law enforcement agency not specified above who has successfully completed the basic law enforcement training course required by that agency;

3. Any military peace officer of the United States Army, Navy, Marine Corps, or Air Force, or a reserve component thereof, or of the Army ~~*National Guard Reserve*~~ or Air ~~*Force National Guard Reserve*~~ who has successfully completed the military law enforcement training course required by that branch of the military; and
 4. Any member of the United States Coast Guard serving in a peace officer role who has successfully completed the law enforcement training course specified by the United States Coast Guard.
- (c) *Active or discharged service members in the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, or a reserve component thereof, or of the Army National Guard or Air National Guard shall be deemed to have met the training requirement if these persons:*
1. *Successfully completed handgun training of not less than four (4) hours, which was conducted by the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, or a reserve component thereof, or of the Army National Guard or Air National Guard; or*
 2. *Successfully completed handgun qualification within the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, or a reserve component thereof, or of the Army Guard or Air Force National Guard.*
- (7) The application for a license, or renewal of a license, to carry a concealed deadly weapon shall be obtained from the office of the sheriff in the county in which the person resides. ***Persons qualifying under subsection (6)(c) of this section shall be supplied the information in subsection (4)(i)(4) of this section upon obtaining an application.*** The completed application and all accompanying material plus an application fee or renewal fee, as appropriate, of sixty dollars (\$60) shall be presented to the office of the sheriff of the county in which the applicant resides. A full-time or part-time peace officer who is currently certified as a peace officer by the Kentucky Law Enforcement Council who is authorized by his or her employer or government authority to carry a concealed deadly weapon at all times and all locations within the Commonwealth pursuant to KRS 527.020 or a retired peace officer who is a member of the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be exempt from paying the application or renewal fees. The sheriff shall transmit the application and accompanying material to the Department of Kentucky State Police within five (5) working days. Twenty dollars (\$20) of the application fee shall be retained by the office of the sheriff for official expenses of the office. Twenty dollars (\$20) shall be sent to the Department of Kentucky State Police with the application. Ten dollars (\$10) shall be transmitted by the sheriff to the Administrative Office of the Courts to fund background checks for youth leaders, and ten dollars (\$10) shall be transmitted to the Administrative Office of the Courts to fund background checks for applicants for concealed weapons. The application shall be completed, under oath, on a form promulgated by the Department of Kentucky State Police by administrative regulation which shall only include:
- (a)
 1. The name, address, place and date of birth, citizenship, gender, Social Security number of the applicant; and
 2. If not a citizen of the United States, alien registration number if applicable, passport number, visa number, mother's maiden name, and other information necessary to determine the immigration status and eligibility to purchase a firearm under federal law of a person who is not a citizen of the United States;
 - (b) A statement that, to the best of his or her knowledge, the applicant is in compliance with criteria contained within subsections (3) and (4) of this section;
 - (c) A statement that the applicant has been furnished a copy of this section and is knowledgeable about its provisions;
 - (d) A statement that the applicant has been furnished a copy of, has read, and understands KRS Chapter 503 as it pertains to the use of deadly force for self-defense in Kentucky; and
 - (e) A conspicuous warning that the application is executed under oath and that a materially false answer to any question, or the submission of any materially false document by the applicant, subjects the applicant to criminal prosecution under KRS 523.030.
- (8) The applicant, if a resident of the Commonwealth, shall submit to the sheriff of the applicant's county of residence:

- (a) A completed application as described in subsection (7) of this section;
- (b) A recent color photograph of the applicant, as prescribed by administrative regulation;
- (c) A photocopy of a certificate or an affidavit or document as described in subsection (5) of this section; and
- (d) For an applicant who is not a citizen of the United States and has been lawfully admitted to the United States by the United States government or an agency thereof, his or her United States government issued:
 - 1. Permanent Resident Card I-551 or its equivalent successor identification;
 - 2. Other United States government issued evidence of lawful admission to the United States which includes the category of admission, if admission has not been granted as a permanent resident; and
 - 3. Evidence of compliance with the provisions of 18 U.S.C. sec. 922(g)(5), 18 U.S.C. sec. 922(d)(5), or 18 U.S.C. sec. 922(y)(2), and 27 C.F.R. Part 178, including, as appropriate, but not limited to evidence of ninety (90) day residence in the Commonwealth, a valid current Kentucky hunting license if claiming exemption as a hunter, or other evidence of eligibility to purchase a firearm by an alien which is required by federal law or regulation.

If an applicant presents identification specified in this paragraph, the sheriff shall examine the identification, may record information from the identification presented, and shall return the identification to the applicant.

- (9) The Department of Kentucky State Police shall, within ninety (90) days after the date of receipt of the items listed in subsection (8) of this section, either:
 - (a) Issue the license; or
 - (b) Deny the application based solely on the grounds that the applicant fails to qualify under the criteria listed in subsection (3) or (4) of this section. If the Department of Kentucky State Police denies the application, it shall notify the applicant in writing, stating the grounds for denial and informing the applicant of a right to submit, within thirty (30) days, any additional documentation relating to the grounds of denial. Upon receiving any additional documentation, the Department of Kentucky State Police shall reconsider its decision and inform the applicant within twenty (20) days of the result of the reconsideration. The applicant shall further be informed of the right to seek de novo review of the denial in the District Court of his or her place of residence within ninety (90) days from the date of the letter advising the applicant of the denial.
- (10) The Department of Kentucky State Police shall maintain an automated listing of license holders and pertinent information, and this information shall be available on-line, upon request, at all times to all Kentucky, federal, and other states' law enforcement agencies. A request for the entire list of licensees, or for all licensees in a geographic area, shall be denied. Only requests relating to a named licensee shall be honored or available on-line. Information on applications for licenses, names and addresses, or other identifying information relating to license holders shall be confidential and shall not be made available except to law enforcement agencies. No request for lists of local or statewide permit holders shall be made to any state or local law enforcement agency, peace officer, or other agency of government other than the Department of Kentucky State Police, and no state or local law enforcement agency, peace officer, or agency of government, other than the Department of Kentucky State Police, shall provide any information not entitled to it by law.
- (11) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after the loss, theft, or destruction of a license, the licensee shall notify the Department of Kentucky State Police of the loss, theft, or destruction. Failure to notify the Department of Kentucky State Police shall constitute a noncriminal violation with a penalty of twenty-five dollars (\$25) payable to the clerk of the District Court. No court costs shall be assessed for a violation of this subsection. When a licensee makes application to change his or her residence address or other information on the license, neither the sheriff nor the Department of Kentucky State Police shall require a surrender of the license until a new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff.
- (12) If a license is lost, stolen, or destroyed, the license shall be automatically invalid, and the person to whom the same was issued may, upon payment of fifteen dollars (\$15) to the Department of Kentucky State Police,

obtain a duplicate, upon furnishing a notarized statement to the Department of Kentucky State Police that the license has been lost, stolen, or destroyed.

- (13) (a) The commissioner of the Department of Kentucky State Police, or his or her designee in writing, shall revoke the license of any person who becomes permanently ineligible to be issued a license or have a license renewed under the criteria set forth in this section.
- (b) The commissioner of the Department of Kentucky State Police, or his or her designee in writing, shall suspend the license of any person who becomes temporarily ineligible to be issued a license or have a license renewed under the criteria set forth in this section. The license shall remain suspended until the person is again eligible for the issuance or renewal of a license.
- (c) Upon the suspension or revocation of a license, the commissioner of the Department of Kentucky State Police, or his or her designee in writing, shall:
1. Order any peace officer to seize the license from the person whose license was suspended or revoked; or
 2. Direct the person whose license was suspended or revoked to surrender the license to the sheriff of the person's county of residence within two (2) business days of the receipt of the notice.
- (d) If the person whose license was suspended or revoked desires a hearing on the matter, the person shall surrender the license as provided in paragraph (c)2. of this subsection and petition the commissioner of the Department of Kentucky State Police to hold a hearing on the issue of suspension or revocation of the license.
- (e) Upon receipt of the petition, the commissioner of the Department of Kentucky State Police shall cause a hearing to be held in accordance with KRS Chapter 13B on the suspension or revocation of the license. If the license has not been surrendered, no hearing shall be scheduled or held.
- (f) If the hearing officer determines that the licensee's license was wrongly suspended or revoked, the hearing officer shall order the commissioner of the Department of Kentucky State Police to return the license and abrogate the suspension or revocation of the license.
- (g) Any party may appeal a decision pursuant to this subsection to the District Court in the licensee's county of residence in the same manner as for the denial of a license.
- (h) If the license is not surrendered as ordered, the commissioner of the Department of Kentucky State Police shall order a peace officer to seize the license and deliver it to the commissioner.
- (i) Failure to surrender a suspended or revoked license as ordered is a Class A misdemeanor.
- (j) The provisions of this subsection relating to surrender of a license shall not apply if a court of competent jurisdiction has enjoined its surrender.
- (k) When a domestic violence order or emergency protective order is issued pursuant to the provisions of KRS Chapter 403 against a person holding a license issued under this section, the holder of the permit shall surrender the license to the court or to the officer serving the order. The officer to whom the license is surrendered shall forthwith transmit the license to the court issuing the order. The license shall be suspended until the order is terminated, or until the judge who issued the order terminates the suspension prior to the termination of the underlying domestic violence order or emergency protective order, in writing and by return of the license, upon proper motion by the license holder. Subject to the same conditions as above, a peace officer against whom an emergency protective order or domestic violence order has been issued shall not be permitted to carry a concealed deadly weapon when not on duty, the provisions of KRS 527.020 to the contrary notwithstanding.
- (14) (a) Not less than one hundred twenty (120) days prior to the expiration date of the license, the Department of Kentucky State Police shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the Department of Kentucky State Police. The outside of the envelope containing the license renewal notice shall bear only the name and address of the applicant. No other information relating to the applicant shall appear on the outside of the envelope sent to the applicant. The licensee may renew his or her license on or before the expiration date by filing with the sheriff of his or her county of residence the renewal form, a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections (3) and (4) of this section, and the required renewal fee. The sheriff shall issue to the applicant a receipt for the application for renewal of the license and shall date the receipt.

- (b) A license which has expired shall be void and shall not be valid for any purpose other than surrender to the sheriff in exchange for a renewal license.
 - (c) The license shall be renewed to a qualified applicant upon receipt of the completed renewal application, records check as specified in subsection (3) of this section, determination that the renewal applicant is not ineligible for a license as specified in subsection (4), and appropriate payment of fees. Upon the issuance of a new license, the old license shall be destroyed by the sheriff. A licensee who fails to file a renewal application on or before its expiration date may renew his or her license by paying, in addition to the license fees, a late fee of fifteen dollars (\$15). No license shall be renewed six (6) months or more after its expiration date, and the license shall be deemed to be permanently expired six (6) months after its expiration date. A person whose license has permanently expired may reapply for licensure pursuant to subsections (7), (8), and (9) of this section.
- (15) The licensee shall carry the license at all times the licensee is carrying a concealed firearm or other deadly weapon and shall display the license upon request of a law enforcement officer. Violation of the provisions of this subsection shall constitute a noncriminal violation with a penalty of twenty-five dollars (\$25), payable to the clerk of the District Court, but no court costs shall be assessed.
- (16) Except as provided in KRS 527.020, no license issued pursuant to this section shall authorize any person to carry a concealed firearm into:
- (a) Any police station or sheriff's office;
 - (b) Any detention facility, prison, or jail;
 - (c) Any courthouse, solely occupied by the Court of Justice courtroom, or court proceeding;
 - (d) Any meeting of the governing body of a county, municipality, or special district; or any meeting of the General Assembly or a committee of the General Assembly, except that nothing in this section shall preclude a member of the body, holding a concealed deadly weapon license, from carrying a concealed deadly weapon at a meeting of the body of which he or she is a member;
 - (e) Any portion of an establishment licensed to dispense beer or alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to that purpose;
 - (f) Any elementary or secondary school facility without the consent of school authorities as provided in KRS 527.070, any child-caring facility as defined in KRS 199.011, any day-care center as defined in KRS 199.894, or any certified family child-care home as defined in KRS 199.8982, except however, any owner of a certified child-care home may carry a concealed firearm into the owner's residence used as a certified child-care home;
 - (g) An area of an airport to which access is controlled by the inspection of persons and property; or
 - (h) Any place where the carrying of firearms is prohibited by federal law.
- (17) The owner, business or commercial lessee, or manager of a private business enterprise, day-care center as defined in KRS 199.894 or certified or licensed family child-care home as defined in KRS 199.8982, or a health-care facility licensed under KRS Chapter 216B, except facilities renting or leasing housing, may prohibit persons holding concealed deadly weapon licenses from carrying concealed deadly weapons on the premises and may prohibit employees, not authorized by the employer, holding concealed deadly weapons licenses from carrying concealed deadly weapons on the property of the employer. If the building or the premises are open to the public, the employer or business enterprise shall post signs on or about the premises if carrying concealed weapons is prohibited. Possession of weapons, or ammunition, or both in a vehicle on the premises shall not be a criminal offense so long as the weapons, or ammunition, or both are not removed from the vehicle or brandished while the vehicle is on the premises. A private but not a public employer may prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employer, but may not prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employee, except that the Justice and Public Safety Cabinet may prohibit an employee from carrying any weapons, or ammunition, or both other than the weapons, or ammunition, or both issued or authorized to be used by the employee of the cabinet, in a vehicle while transporting persons under the employee's supervision or jurisdiction. Carrying of a concealed weapon, or ammunition, or both in a location specified in this subsection by a license holder shall not be a criminal act but may subject the person to denial from the premises or removal from the premises, and, if an employee of an employer, disciplinary measures by the employer.

- (18) All moneys collected by the Department of Kentucky State Police pursuant to this section shall be used to administer the provisions of this section and KRS 237.138 to 237.142. By March 1 of each year, the Department of Kentucky State Police and the Administrative Office of the Courts shall submit reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the amounts of money collected and the expenditures related to this section, KRS 237.138 to 237.142, and KRS 237.115, 244.125, 527.020, and 527.070, and the administration of the provisions of this section, KRS 237.138 to 237.142, and KRS 237.115, 244.125, 527.020, and 527.070.
- (19) The General Assembly finds as a matter of public policy that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed firearms and to occupy the field of regulation of the bearing of concealed firearms to ensure that no person who qualifies under the provisions of this section is denied his rights. The General Assembly does not delegate to the Department of Kentucky State Police the authority to regulate or restrict the issuing of licenses provided for in this section beyond those provisions contained in this section. This section shall be liberally construed to carry out the constitutional right to bear arms for self-defense.
- (20) (a) A person who has a valid license issued by another state of the United States to carry a concealed deadly weapon in that state may, subject to provisions of Kentucky law, carry a concealed deadly weapon in Kentucky, and his or her license shall be considered as valid in Kentucky.
- (b) The Department of Kentucky State Police shall, not later than thirty (30) days after July 15, 1998, and not less than once every six (6) months thereafter, make written inquiry of the concealed deadly weapon carrying licensing authorities in each other state as to whether a Kentucky resident may carry a concealed deadly weapon in their state based upon having a valid Kentucky concealed deadly weapon license, or whether a Kentucky resident may apply for a concealed deadly weapon carrying license in that state based upon having a valid Kentucky concealed deadly weapon license. The Department of Kentucky State Police shall attempt to secure from each other state permission for Kentucky residents who hold a valid Kentucky concealed deadly weapon license to carry concealed deadly weapons in that state, either on the basis of the Kentucky license or on the basis that the Kentucky license is sufficient to permit the issuance of a similar license by the other state. The Department of Kentucky State Police shall enter into a written reciprocity agreement with the appropriate agency in each state that agrees to permit Kentucky residents to carry concealed deadly weapons in the other state on the basis of a Kentucky-issued concealed deadly weapon license or that will issue a license to carry concealed deadly weapons in the other state based upon a Kentucky concealed deadly weapon license. If a reciprocity agreement is reached, the requirement to recontact the other state each six (6) months shall be eliminated as long as the reciprocity agreement is in force. The information shall be a public record and shall be available to individual requesters free of charge for the first copy and at the normal rate for open records requests for additional copies.
- (21) By March 1 of each year, the Department of Kentucky State Police shall submit a statistical report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the number of licenses issued, revoked, suspended, and denied since the previous report and in total and also the number of licenses currently valid. The report shall also include the number of arrests, convictions, and types of crimes committed since the previous report by individuals licensed to carry concealed weapons.
- (22) The following provisions shall apply to concealed deadly weapon training classes conducted by the Department of Criminal Justice Training or any other agency pursuant to this section:
- (a) No concealed deadly weapon instructor trainer shall have his or her certification as a concealed deadly weapon instructor trainer reduced to that of instructor or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;
- (b) No concealed deadly weapon instructor shall have his or her certification as a concealed deadly weapon instructor license suspended or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;
- (c) The department shall not require prior notification that an applicant class or instructor class will be conducted by a certified instructor or instructor trainer;
- (d) Each concealed deadly weapon instructor or instructor trainer who teaches a concealed deadly weapon applicant or concealed deadly weapon instructor class shall supply the Department of Criminal Justice

Training with a class roster indicating which students enrolled and successfully completed the class, and which contains the name and address of each student, within five (5) working days of the completion of the class. The information may be sent by mail, facsimile, e-mail, or other method which will result in the receipt of or production of a hard copy of the information. The postmark, facsimile date, or e-mail date shall be considered as the date on which the notice was sent. Concealed deadly weapon class applicant, instructor, and instructor trainer information and records shall be confidential. The department may release to any person or organization the name, address, and telephone number of a concealed deadly weapon instructor or instructor trainer if that instructor or instructor trainer authorizes the release of the information in writing. The department shall include on any application for an instructor or instructor trainer certification a statement that the applicant either does or does not desire the applicant's name, address, and telephone number to be made public;

- (e) An instructor trainer who assists in the conduct of a concealed deadly weapon instructor class or concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her certification. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon instructor or concealed deadly weapon class;
- (f) An instructor who assists in the conduct of a concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her license. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon class;
- (g) If the Department of Criminal Justice Training believes that a firearms instructor trainer or certified firearms instructor has not in fact complied with the requirements for teaching a certified firearms instructor or applicant class by not teaching the class as specified in KRS 237.126, or who has taught an insufficient class as specified in KRS 237.128, the department shall send to each person who has been listed as successfully completing the concealed deadly weapon applicant class or concealed deadly weapon instructor class a verification form on which the time, date, date of range firing if different from the date on which the class was conducted, location, and instructor of the class is listed by the department and which requires the person to answer "yes" or "no" to specific questions regarding the conduct of the training class. The form shall be completed under oath and shall be returned to the Department of Criminal Justice Training not later than forty-five (45) days after its receipt. A person who fails to complete the form, to sign the form, or to return the form to the Department of Criminal Justice Training within the time frame specified in this section or who, as a result of information on the returned form, is determined by the Department of Criminal Justice Training, following a hearing pursuant to KRS Chapter 13B, to not have received the training required by law shall have his or her concealed deadly weapon license revoked by the Department of Kentucky State Police, following a hearing conducted by the Department of Criminal Justice Training pursuant to KRS Chapter 13B, at which hearing the person is found to have violated the provisions of this section or who has been found not to have received the training required by law;
- (h) The department shall annually, not later than December 31 of each year, report to the Legislative Research Commission:
 - 1. The number of firearms instructor trainers and certified firearms instructors whose certifications were suspended, revoked, denied, or who were otherwise disciplined;
 - 2. The reasons for the imposition of suspensions, revocations, denials, or other discipline; and
 - 3. Suggestions for improvement of the concealed deadly weapon applicant training program and instructor process;
- (i) If a concealed deadly weapon license holder is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon license shall be forthwith revoked by the Department of Kentucky State Police as a matter of law;
- (j) If a concealed deadly weapon instructor or instructor trainer is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon instructor certification or concealed deadly weapon instructor trainer certification shall be revoked by the Department of Criminal Justice Training as a matter of law; and
- (k) The following shall be in effect:

1. Action to eliminate the firearms instructor trainer program is prohibited. The program shall remain in effect, and no firearms instructor trainer shall have his or her certification reduced to that of certified firearms instructor;
2. The Department of Kentucky State Police shall revoke the concealed deadly weapon license of any person who received no firearms training as required by KRS 237.126 and administrative regulations, or who received insufficient training as required by KRS 237.128 and administrative regulations, if the person voluntarily admits nonreceipt of training or admits receipt of insufficient training, or if either nonreceipt of training or receipt of insufficient training is proven following a hearing conducted by the Department of Criminal Justice Training pursuant to KRS Chapter 13B.

➔Section 6. KRS 35.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) *"State" means one of the several states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the United States Virgin Islands* ~~["National Guard" means the Kentucky Army National Guard and the Kentucky Air National Guard];~~
- (2) *"Cadet," "candidate," or "midshipman" means a person who is enrolled in or attending a state military academy, a regional training institute, or any other formal education program for the purpose of becoming a commissioned officer in the state military forces* ~~["Active militia" means a volunteer defense unit other than the National Guard];~~
- (3) "Officer" means a commissioned ~~or~~ ~~officer, including a~~ warrant officer;
- (4) "Superior commissioned officer" means a commissioned officer superior in rank or command;
- (5) "Enlisted ~~member~~ ~~person~~" means ~~a~~ ~~any~~ person ~~who is serving~~ in an enlisted grade ~~in any force of the National Guard or active militia~~;
- (6) "State active duty" means full-time military duty in the *state military forces* ~~active service of the state~~ under an order of the Governor *or otherwise issued by authority of law, and paid by state funds, and includes* ~~including~~ travel to and from the duty;
- (7) "Military court" means a court-martial ~~or~~ ~~a court of inquiry~~ ~~a provost court, or a military commission~~;
- (8) "Military judge" means an official of *a* general and special *court-martial* ~~courts-martial~~ detailed in accordance with KRS 35.125;
- (9) *"Classified information" means:*
 - (a) *Any information or material that has been determined by an official of the United States or any state pursuant to law, an executive order, or regulation to require protection against unauthorized disclosure for reasons of national or state security; and*
 - (b) *Any restricted data, as defined in the Atomic Energy Act of 1954, 42 U.S.C. sec. 2014(y)* ~~"Subject person" means person subject to this chapter~~;
- (10) "Code" means this chapter;
- (11) *"National security" means the national defense and foreign relations of the United States* ~~"Commissioned officer" includes a commissioned warrant officer~~;
- (12) "Commanding officer" includes only commissioned officers *of the state military forces and shall include officers in charge only when administering nonjudicial punishment under Section 19 of this Act. The term "commander" has the same meaning unless the context otherwise requires*;
- (13) *"Day" means calendar day and is not synonymous with the term "unit training assembly." Any punishment authorized by this chapter which is measured in terms of days shall, when served in a status other than annual field training, be construed to mean succeeding duty days* ~~"Grade" means a step or degree in a graduated scale of office or military rank that is established by law or regulation~~;
- (14) *"Record," when used in connection with the proceedings of a court-martial, means:*
 - (a) *An official written transcript, written summary, or other writing relating to the proceedings; or*

- (b) *An official audiotape, videotape, digital image or file, or similar material from which sound, or sound and visual images, depicting the proceedings may be reproduced*~~["Rank" means order of precedence among members of the National Guard or active militia];~~
- (15) "Duty status *other than state active duty*" means any other type of duty not in federal service and not full-time in the active service of the state; under an order issued by authority of law and includes~~["includes state active duty and any other type of state military duty, including] travel to and from the duty;~~
- (16) "Judge~~[State judge]~~ advocate" means a~~[the]~~ commissioned officer *of the organized state military forces who is a member in good standing of the bar of the highest court of a state, and is:*
- (a) *Certified or designated as a judge advocate in the Judge Advocate General's Corps of the Army, Air Force, Navy, Marine Corps, or Coast Guard, or a reserve component of one of these; or*
- (b) *Certified as a non-federally recognized judge advocate, under regulations promulgated pursuant to this provision, by the senior judge advocate of the commander of the force in the state military forces of which the accused is a member, as competent to perform those military justice duties required by this code. If there is no judge advocate available, then the certification may be made by a senior judge advocate of the commander of another force in the state military forces, as the convening authority directs*~~[responsible for supervising the administration of military justice in the National Guard or active militia];~~
- (17) "Accuser" means a person who signs and swears to charges, any person who directs that charges *nominally*~~[normally]~~ be signed and sworn to by another, and any *other* person who has an interest other than an official interest in the prosecution of the accused;
- (18) "Military" refers to any or all of the Armed Forces;
- (19) "Convening authority" includes, in addition to the person who convened the court, a commissioned officer commanding for the time being or a successor in command *to the convening authority;*~~[and]~~
- (20) "*Officer in charge*" means a member of the naval militia, the Navy, the Marine Corps, or the Coast Guard designated as such by appropriate authority;~~["Peace officer" as used in this chapter means any sheriff, deputy sheriff, constable, deputy constable, sworn police officer, sworn enforcement officer of the Department of Kentucky State Police or other duly authorized state law enforcement agency, and other persons with similar authority to make arrests under the provisions of the Kentucky Revised Statutes.]~~
- (21) "*Senior force commander*" means the commander of the same force of the state military forces as the accused;
- (22) "*Senior force judge advocate*" means the senior judge advocate of the commander of the same force of the state military forces as the accused and who is that commander's chief legal advisor;
- (23) "*State military forces*" means the Kentucky National Guard as defined in Title 32 of the United States Code and as organized under the Constitution and laws of the Commonwealth of Kentucky. The unorganized militia, state defense force, state national guard, home guard, or any other name of any state force that does not meet this definition shall not be part of the "state military forces" under this code; and
- (24) "*Military offenses*" means those offenses prescribed under Sections 81, 82, 83 to 121, and 135 to 137 of this Act.

➔Section 7. KRS 35.015 is amended to read as follows:

- (1) *This code applies to all members of the state military forces at all times and in all places.*
- (2) *Subject matter jurisdiction is established if a nexus exists between an offense, either military or non-military, and the state military force. Courts-martial have primary jurisdiction of military offenses of this code. A proper civilian court has primary jurisdiction of a non-military offense when an act or omission violates both this code and local criminal law, foreign or domestic. In such a case, a court-martial may be initiated only after the civilian authority has declined to prosecute or dismissed the charge, provided jeopardy has not attached. Jurisdiction over attempted crimes, conspiracy crimes, solicitation, and accessory crimes must be determined by the underlying offense*~~[All persons belonging to the National Guard or active militia and who are not in federal service under a call or order of the President of the United States shall be subject to the provisions of this code].~~

➔Section 8. KRS 35.020 is amended to read as follows:

- (1) ~~Each person~~~~[All persons]~~ discharged from the *state military forces who is later*~~[National Guard or active militia subsequently]~~ charged with having fraudulently obtained ~~a~~~~[said]~~ discharge *is, subject to Section 44 of this Act,*~~[shall be]~~ subject to trial by court-martial on ~~that~~~~[said]~~ charge and *is, after apprehension,*~~[shall be]~~ subject to this code *while in custody under the direction of the state military forces for that trial.* Upon conviction of ~~that~~~~[said]~~ charge *that person is*~~[they shall be]~~ subject to trial by court-martial for *all offenses*~~[any offense]~~ under this code committed prior to the fraudulent discharge.
- (2) ~~No~~~~[Any]~~ person who has deserted from the *state military forces may be*~~[National Guard or active militia shall not be]~~ relieved from amenability to the jurisdiction of this code by virtue of a separation from any subsequent period of service.

~~{(3) The fact that any person charged with an offense under this code is separated from the service while proceedings are pending or while undergoing sentence shall not affect the jurisdiction of any court martial.}~~

➔Section 9. KRS 35.030 is amended to read as follows:

- (1) This code *has applicability at all times and*~~[shall be applicable]~~ in all places *subject to the personal jurisdiction as provided in Section 7 of this Act, or, if not in a duty status, that there is a nexus between the act or omission constituting the offense and the efficient functioning of the state military forces; however, this grant of military jurisdiction shall neither preclude nor limit civilian jurisdiction over an offense, which is limited only by the prohibition of double jeopardy*~~[within the state. It shall also apply to all subject persons while serving without the state and while going to and returning from such service without the state in like manner and to the same extent as while such persons are serving within the state].~~
- (2) Courts-martial and courts of inquiry may be convened and held in units of the *state military forces while those units are serving outside*~~[National Guard or active militia while serving without the state with]~~ the same jurisdiction and powers as *to persons subject to this code as if the proceeding were held inside the state, and offenses committed outside the state may be tried and punished either inside or outside*~~[if held within the state and offenses committed without the state may be tried and punished either without the state or within]~~ the state.

➔Section 10. KRS 35.022 is repealed, reenacted as a new section of KRS Chapter 35, and amended to read as follows:

- (1) *The senior force judge advocates in each of the state's military forces or that judge advocate's delegates shall make frequent inspections in the field of supervision of the administration of military justice*~~[The Governor, on the recommendation of the adjutant general, shall appoint an officer of the National Guard or active militia as state judge advocate. To be eligible for appointment, an officer must be a member of the bar of the highest court of the state and must have been a member of the bar of the state for at least five (5) years].~~
- (2)~~[The adjutant general may appoint as many assistant state judge advocates as he considers necessary. To be eligible for appointment, assistant state judge advocates must be officers of the National Guard or active militia and members of the bar of the highest court of the state.~~
- ~~{(3)}~~ Convening authorities shall at all times communicate directly with their~~[staff]~~ judge advocates in matters relating to the administration of military justice. ~~The~~~~[; and the staff]~~ judge advocate of any command is entitled to communicate directly with the~~[staff]~~ judge advocate of a superior or subordinate command, or with the state judge advocate.
- ~~{(3)}~~~~{(4)}~~ No person who has acted as member, military judge, trial counsel,~~[assistant trial counsel,]~~ defense counsel,~~[assistant defense counsel]~~ or investigating officer, or who has been a witness~~[for either the prosecution or defense]~~ in any case~~[;]~~ may later act as ~~a~~~~[staff]~~ judge advocate to any reviewing authority upon the same case.

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

Procedures pertaining to the selection and regulation of military judges shall be promulgated by the adjutant general and approved by the Governor of the Commonwealth of Kentucky.

➔Section 12. KRS 35.035 is amended to read as follows:

- (1) Apprehension is the taking *of a person* into custody~~[of a person]~~.
- (2) Any *person authorized by this code or by 10 U.S.C. Chapter 47, or by regulations issued under either, to*~~[officer, warrant officer or peace officer as defined in this chapter may]~~ apprehend~~[subject]~~ persons *subject to this code, any marshal of a court-martial appointed pursuant to the provisions of this code, and any*

peace officer or civil officer having authority to apprehend offenders under the laws of the United States or of a state, may do so upon ~~having~~ probable cause ~~to believe~~ that an offense has been committed and that the person apprehended committed it.

- (3) *Commissioned officers, warrant officers, petty officers, and noncommissioned officers have authority to quell quarrels, frays, and disorders among persons subject to this code and to apprehend persons subject to this code who take part therein* ~~Any enlisted person as defined in this chapter may apprehend subject persons upon the direct verbal or written order of a commissioned officer or convening authority.~~
- (4) *If an offender is apprehended outside the state, the offender's return to the jurisdiction must be in accordance with normal extradition procedures or by reciprocal agreement.*
- (5) *No person authorized by this section to apprehend persons subject to this code or the place where the offender is confined, restrained, held, or otherwise housed may require payment of any* ~~peace officer, jailer or other state officer shall demand or require payment of any fee or charge of any nature for apprehending or placing in confinement any subject person. However, such prohibition shall not apply to such~~ fee or charge *for receiving, apprehending, confining, restraining, holding, or otherwise housing a person except as otherwise provided by law* ~~being assessed against the subject person as a court cost or jail fee.~~

➔Section 13. KRS 35.045 is amended to read as follows:

- (1) Arrest is the restraint of a person by an order not imposed as a punishment for an offense, directing *the person* ~~him~~ to remain within certain specified limits. Confinement is the physical restraint of a person.
- (2) An enlisted *member* ~~person~~ may be ordered ~~apprehended or~~ into arrest or confinement by any *commissioned* officer by an order, oral or written, delivered in person, or through other ~~subject~~ persons ~~or through any person authorized by~~ *subject to* this code ~~to apprehend persons~~. A commanding officer may authorize warrant officers, *petty officers*, or noncommissioned officers to order enlisted members of *the commanding officer's* ~~his~~ command or subject to *the commanding officer's* ~~his~~ authority into arrest or confinement.
- (3) *A commissioned officer, a warrant officer, or a civilian subject to this code or to trial thereunder* ~~An officer~~ may be ordered into arrest or confinement only by a commanding officer to whose authority he *or she* is subject, by an order, oral or written, delivered in person or by another *commissioned* officer. The authority to order such persons into arrest or confinement may not be delegated.
- (4) No person *may* ~~shall~~ be ordered into arrest or confinement except for probable cause.
- (5) ~~Nothing in~~ This section *does not* ~~shall be construed to~~ limit the authority of persons authorized to apprehend offenders to secure the custody of an alleged offender until proper authority may be notified.

➔Section 14. KRS 35.050 is amended to read as follows:

- ~~(1)~~ Any subject person charged with an offense under this code *may* ~~shall~~ be ordered ~~apprehended or~~ into arrest or confinement, as circumstances may require. When any ~~subject~~ person *subject to this code* is placed in arrest or confinement prior to trial, immediate steps shall be taken to inform *the person* ~~him~~ of the specific wrong of which *the person* ~~he~~ is accused *and diligent steps shall be taken to try the person or to dismiss the charges and release the person.* ~~This notification may be done by serving the accused with a copy of the charge sheet or specifications attached to the warrant or order of arrest, confinement or detainment.~~
- ~~(2)~~ ~~Upon apprehension, arrest or confinement and notification thereof to the convening authority or his authorized representative, steps shall be taken within the shortest practicable period of time to try the accused or otherwise dispose of the charges.~~
- ~~(3)~~ ~~The convening authority shall, upon issuing a warrant or order for the confinement, arrest or apprehension of a subject person, subject to the exception set out in subsection (4) of this section, provide on the face of same for the admission of the accused to bail. The accused shall be admitted to bail by posting bond in the amount ordered by the convening authority, but not to exceed the maximum fine for the offense. Bail may be accepted by the jailer who has the accused in custody or by a clerk of the Court of Justice, in lieu of the presence of the convening authority or his authorized representative, but if accepted by an officer of the Commonwealth, said bail shall be transmitted to the convening authority or his authorized representative for disposition.~~
- ~~(4)~~ ~~If it is the determination of the convening authority that bail should not be allowed either because the convening authority has probable cause to believe that the accused would not appear for further proceedings or that if released the accused would present an immediate threat to the public safety and welfare or the good order and discipline of the military, such determination shall be noted on the face of the warrant or order for~~

~~the detention of the subject person. In the event that such a determination has been made a hearing shall be held within two (2) working days of the apprehension, arrest or confinement of the accused to determine if the accused should be admitted to bail. In the absence of the convening authority or his authorized representative, such hearing may be held by a judge of the Court of Justice.~~

➔Section 15. KRS 35.055 is amended to read as follows:

- (1) *If a person subject to this code is confined before*~~[Confinement and imprisonment other than in a guardhouse, whether prior to],~~ during, or after trial, **confinement shall be in a civilian or military confinement facility**~~[by a military court, shall be executed in jails, penitentiaries or prisons designated by the Governor or by the adjutant general for that purpose].~~
- (2) No *person authorized to receive prisoners pursuant to subsection (1) of this section* ~~may~~~~[provost marshal, commander of a guard, sheriff or deputy sheriff or other peace officer, warden, jailer or officer of any jail, penitentiary or prison, as designated in subsection (1) of this section, shall]~~ refuse to receive~~[, keep,]~~ or *keep*~~[transport]~~ any prisoner committed *to the person's*~~[his]~~ charge **by a commissioned officer of the state military forces**, when the committing *officer*~~[person]~~ furnishes a statement, signed by *the officer*~~[him]~~, of the offense charged against the prisoner, **unless otherwise authorized by law**.
- (3) Every *person authorized to receive prisoners pursuant to subsection (1)*~~[provost marshal, commander of a guard, warden, jailer or officer, as set out in subsection (2)]~~ of this section, to whose charge a prisoner is committed shall, within twenty-four (24) hours after *that*~~[such]~~ commitment or as soon as he *or she* is relieved from guard, report to the commanding officer of the prisoner the name of *the*~~[such]~~ prisoner, the offense charged against *the prisoner*~~[him]~~, and the name of the person who ordered or authorized the commitment.

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

No member of the state military forces may be placed in confinement in immediate association with enemy prisoners or other foreign nationals not members of the Armed Forces.

➔Section 17. KRS 35.060 is amended to read as follows:

~~[Subject to the provisions of KRS 35.280,]~~ No person, while being held for trial or **awaiting a verdict**~~[the results of trial]~~, shall be subjected to punishment or penalty other than arrest or confinement upon the charges pending against *the person*~~[him]~~, nor shall the arrest or confinement imposed upon *the person*~~[him]~~ be any more rigorous than the circumstances require to insure *the person's*~~[his]~~ presence, but *the person*~~[he]~~ may be subjected to minor punishment during *that*~~[such]~~ period for infractions of discipline.

➔Section 18. KRS 35.065 is amended to read as follows:

- (1) *A person subject to this code*~~[Under such regulations as may be issued pursuant to this chapter, a subject person]~~ accused of an offense against civil authority may be delivered, upon request, to the civil authority for trial **or confinement**.
- (2) When delivery under this chapter is made to any civil authority of a person undergoing sentence of a court-martial, *the*~~[such]~~ delivery, **if followed by conviction in a civil tribunal, interrupts**~~[shall be held to interrupt]~~ the execution of the sentence of the court-martial, and the offender, after having answered to the civil authorities for *the*~~[his]~~ offense, shall, upon the request of **competent military authority**~~[the adjutant general]~~, be returned to **the place of original**~~[military]~~ custody for the completion of the *person's*~~[said court martial]~~ sentence.

➔Section 19. KRS 35.070 is amended to read as follows:

- (1) Under such regulations as **prescribed**~~[may be issued pursuant to this chapter]~~, any commanding officer, **and for purposes of this section, officers-in-charge**, may~~[, in addition to or in lieu of admonition or reprimand,]~~ impose~~[one (1) or more of the following]~~ disciplinary punishments for minor offenses without the intervention of a court-martial **pursuant to this section. The Governor, the adjutant general, or an officer of a general or flag rank in command may delegate the powers under this section to a principal assistant who is a member of the state military forces.**
- (2) **Any commanding officer may impose upon enlisted members of the officer's command:**
 - (a) **An admonition**~~[Upon officers of his command:~~
 - 1.—— **Restriction to certain specified limits, with or without suspension from duty, for a period not to exceed two (2) consecutive weeks; or**

- ~~2. A fine not exceeding two hundred dollars (\$200);~~
- (b) *A reprimand;*
- (c) *The withholding of privileges for not more than six (6) months;*
- (d) *The* ~~Upon other military personnel:~~
1. ~~Restriction to certain specified limits, with or without suspension from duty, for a period not to exceed two (2) consecutive weeks;~~
2. ~~Extra duties for a period not more than fourteen (14) days which need not be consecutive, and not to exceed two (2) hours per day, holidays included;~~
3. ~~forfeiture of pay of not more than seven (7) days' pay;~~
- (e) *A fine of not more than seven (7) days' pay*~~and allowances not exceeding one hundred dollars (\$100) or a fine of a like amount;~~
- (f) ~~4. A reduction to the next inferior pay~~~~next lower~~ *grade if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction;*
- (g) *Extra duties, including fatigue or other duties, for not more than fourteen (14) days, which need not be consecutive; and*
- (h) *Restriction to certain specified limits, with or without suspension from duty, for not more than fourteen (14) days, which need not be consecutive.*
- (3) *Any commanding officer of the grade of major or lieutenant commander, or above may impose upon enlisted members of the officer's command:*
- (a) *Any punishment authorized in subsection (2)(a), (b), and (c) of this section;*
- (b) *The forfeiture of not more than one-half (1/2) of one (1) month's pay per month for two (2) months;*
- (c) *A fine of not more than one (1) month's pay;*
- (d) *A reduction to the lowest or any intermediate pay grade, if the grade from which demoted is within the promotion authority of the officer imposing the reduction or any officer subordinate to the one who imposes the reduction, but an enlisted member in a pay grade above E-4 may not be reduced more than two (2) pay grades;*
- (e) *Extra duties, including fatigue or other duties, for not more than forty-five (45) days which need not be consecutive; and*
- (f) *Restriction to certain specified limits, with or without suspension from duty, for not more than sixty (60) days which need not be consecutive.*
- (4) *The Governor, the adjutant general, an officer exercising general court-martial convening authority, or an officer of a general or flag rank in command may impose:*
- (a) *Upon officers in the officer's command:*
1. *Any punishment authorized in paragraphs (a), (b), (c), or (f) of subsection (3) of this section; and*
2. *Arrest in quarters for not more than thirty (30) days which need not be consecutive;*
- (b) *Upon enlisted members of the officer's command, any punishment authorized in subsection (3) of this section.*
- (5) *Whenever any of those punishments are combined to run consecutively, the total length of the combined punishment cannot exceed the authorized duration of the longest punishment in the combination, and there must be an apportionment of punishments so that no single punishment in the combination exceeds its authorized length under this section.*
- (6) *Prior to the offer of non-judicial punishment, the commanding officer shall determine whether arrest in quarters or restriction shall be considered as punishments. Should the commanding officer determine that the punishment options may include arrest in quarters or restriction, the accused shall be notified of the right to demand a trial by court-martial. Should the commanding officer determine that the punishment*

options will not include arrest in quarters or restriction, the accused shall be notified that there is no right to trial by courts-martial in lieu of non-judicial punishment.

- (7) *The officer who imposes punishment, or the successor in command, may, at any time, suspend, set aside, mitigate, or remit any part or amount of the punishment and restore all rights, privileges, and property affected. The officer also may mitigate:*
- (a) *Reduction in grade to forfeiture of pay;*
 - (b) *Arrest in quarters to restriction; or*
 - (c) *Extra duties to restriction.*

The mitigated punishment shall not be for a greater period than the punishment mitigated. When mitigating reduction in grade to forfeiture of pay, the amount of the forfeiture shall not be greater than the amount that could have been imposed initially under this section by the officer who imposed the punishment mitigated.

- (8) ~~{was established by the command or an equivalent or lower command; or~~
5. ~~A combination of these punishments.~~

~~(2) Prior to being informed of the disciplinary action to be taken under this section, the person to be punished shall have the right to demand a trial by court-martial for the offense.~~

~~(3) Under such regulations as may be issued pursuant to this chapter, limitations may be placed on the powers granted by this section with respect to the kind and amount of punishment authorized, the categories of commanding officers authorized to exercise such powers, and the applicability of this section to an accused on active service who demands trial by a court-martial.~~

~~(4) An officer in charge may, for minor offenses, impose on enlisted persons assigned to the unit of which he is in charge such of the punishments authorized to be imposed by commanding officers as may be specifically prescribed by regulations issued pursuant to this chapter.~~

~~(5) Except where punishment has been imposed by the Governor, }A person punished under this section who considers *the*~~{his}~~ punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority *within fifteen (15) days after the punishment is either announced or sent to the accused, as the commander may determine*. The appeal shall be promptly forwarded and decided, but the person punished may in the meantime be required to undergo the punishment adjudged. The *superior authority may exercise the same powers with respect to the punishment imposed as may be exercised under subsection (7) of this section by the* officer who ~~imposed~~~~{imposes}~~ the punishment. *Before acting on an appeal from a punishment, the authority that is to act on the appeal may refer the case to a judge advocate for consideration and advice*~~{, his successor in command and superior authority may suspend, set aside or remit any part or amount of the punishment and restore all rights, privileges and property affected}~~.~~

~~(9){(6)}~~ The imposition and enforcement of disciplinary punishment under~~{authority of}~~ this section for any act or omission ~~is~~~~{shall}~~ not~~{be}~~ a bar to trial by court-martial *or a civilian court of competent jurisdiction* for a serious crime or offense ~~growing~~~~{arising}~~ out of the same act or omission, and not properly punishable under this section; but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the amount of punishment to be adjudged in the event of a finding of guilty.

~~(10){(7)}~~ Whenever a punishment of forfeiture of pay~~{and allowances}~~ is imposed as provided in this section, the forfeiture may apply to pay *accruing before, on,*~~{or allowances becoming due on}~~ or after the date ~~that~~~~{such}~~ punishment is imposed~~{and to pay allowances accrued before such a date}~~.

(11) *Regulations may prescribe the form of forfeiture of records to be kept of proceedings under this section and may prescribe that certain categories of those proceedings shall be in writing.*

(12) *"Day," as it is used in this section, is defined as follows:*

- (a) *For the purpose of pay, one (1) day shall equal one (1) active duty military pay day.*
- (b) *For all other purposes, one (1) day shall equal one (1) calendar day.*

➔Section 20. KRS 35.075 is amended to read as follows:

~~{(1) In the National Guard and active militia there are general, special and summary courts martial constituted like similar courts of the Armed Forces of the United States. They have the jurisdiction and powers, except as to punishments, and shall follow the forms and procedures provided for those courts.}~~

~~{(2) The two (2) {three (3)} kinds of courts-martial *in the state military forces* are:~~

~~{(1){(a)} General courts-martial, *consisting of*:~~

~~{(a){1.} {Consisting of} A military judge and not less than five (5) members; or}~~

~~{(b){2.} Only a military judge, if before the court is assembled the accused, knowing the identity of the military judge and after consultation with defense counsel, requests *orally on the record or* in writing a court composed only of a military judge and the military judge approves.}~~

~~{(2){(b)} Special courts-martial, *consisting of*:~~

~~{(a){1.} {Consisting of} A military judge and not less than three (3) members; or}~~

~~{(b){2.} Only a military judge, *if one has been detailed to the court, and* {if} the accused under the same conditions as those prescribed in *subsection (1)(b)* {subparagraph (2)(a)2.} of this *section* {subsection} so requests.}~~

~~{(c) Summary courts martial, consisting of one (1) commissioned officer.}~~

➔ Section 21. KRS 35.080 is amended to read as follows:

Each component of the state military forces has ~~{The National Guard or active militia shall have}~~ court-martial jurisdiction over all *members of the particular component who are subject to this code* ~~{subject persons. The Governor or adjutant general shall have the power to promulgate rules and regulations governing the conduct of court martial proceedings}.~~

➔ Section 22. KRS 35.085 is amended to read as follows:

Subject to Section 21 of this Act, general courts-martial ~~{shall}~~ have jurisdiction to try ~~{subject}~~ persons *subject to this code* for any offense *made punishable* ~~{for which they may be punished}~~ by this code, and *may, under those limitations as the Governor may prescribe, adjudge any punishment not forbidden by this code* ~~{, in connection therewith, shall have the power to impose the following punishments:~~

~~{(1) Confinement for not more than six (6) months;~~

~~{(2) Fines or forfeitures of pay and allowances, not exceeding two hundred dollars (\$200);}~~

~~{(3) Dismissal, dishonorable or other punitive discharge;~~

~~{(4) Reprimand;~~

~~{(5) Reduction of enlisted personnel to the lowest enlisted grade; or}~~

~~{(6) A combination of these punishments}.~~

➔ Section 23. KRS 35.090 is amended to read as follows:

~~{(1) }Subject to Section 21 of this Act, special courts-martial have jurisdiction to try persons subject to this code for any offense made punishable by this code, and may, under those limitations as the Governor may prescribe, adjudge any punishment not forbidden by this code except dishonorable discharge, dismissal, confinement for more than one (1) year, forfeiture of pay exceeding two-thirds (2/3) pay per month, or forfeiture of pay for more than one (1) year~~ ~~{, except commissioned officers, for any offense for which they may be punished under this code, and in connection therewith, shall have the power to impose the following punishments:~~

~~{(a) Confinement not to exceed ninety (90) days;~~

~~{(b) Fines or forfeitures of pay and allowances not exceeding one hundred dollars (\$100);}~~

~~{(c) Bad conduct discharge;~~

~~{(d) Reprimand;~~

~~{(e) Reduction of enlisted personnel to the lowest enlisted grade; or}~~

~~{(f) A combination of these punishments.}~~

~~(2) A bad conduct discharge shall not be adjudged unless a complete record of the proceedings and testimony before the court has been made, and counsel qualified pursuant to KRS 35.130 was detailed to represent the accused.~~

➔Section 24. KRS 35.105 is amended to read as follows:

(1) General courts-martial may be convened by:

~~(a)(1)~~ The Governor;

~~(b)(2)~~ The adjutant general; *or*

~~(c)(3) A general officer who is designated as a commander~~~~[When empowered by the Governor, any other commanding officer in any force of the National Guard or active militia, who is not an accuser].~~

(2) *If any such commanding officer is an accuser, the court shall be convened by superior competent authority and may in any case be convened by such superior competent authority if considered desirable by that authority.*

➔Section 25. KRS 35.110 is amended to read as follows:

(1) Special courts-martial may be convened by:

(a) Any person who may convene a general court-martial;

(b) The commanding officer of a garrison, fort, *post*, camp, station, *Air National Guard base, or naval base or station*~~[air base or other place where members of a force of the National Guard or active militia are on duty];~~

(c) The commanding officer of a ~~division,~~ brigade, regiment, detached ~~or separate~~ battalion, ~~wing, group, detached or separate squadron,~~ or corresponding unit of the *Army*~~[National Guard];~~

(d) The commanding officer of *wing, group, separate squadron, or corresponding unit of the Air Force*~~[any separate or detached command or group of detached units of any of the forces of the National Guard or active militia placed under a single commander];~~ or

(e) The commanding officer or officer in charge of any other command, when empowered by the adjutant general.

~~(2) If~~~~When~~ any such officer is an accuser, the court shall be convened by superior competent authority, and may in any case be convened by *that superior authority if considered desirable by that*~~[such] authority~~~~[when deemed advisable by him].~~

➔Section 26. KRS 35.120 is amended to read as follows:

(1) Any *commissioned* officer of ~~or on duty with~~ the *state military forces* is ~~National Guard or active militia shall be~~ eligible to serve on all courts-martial for the trial of any person *subject to this code*~~[who may lawfully be brought before such courts for trial].~~

(2) Any warrant officer of ~~or on duty with~~ the *state military forces* is ~~National Guard or active militia shall be~~ eligible to serve on general and special courts-martial for the trial of any person *subject to this code*, other than a *commissioned*~~[an] officer~~~~[, who may lawfully be brought before such courts for trial].~~

~~(3)(a)~~ Any enlisted member of the *state military forces*~~[National Guard or active militia]~~ who is not a member of the same unit as the accused is eligible to serve on general and special courts-martial for the trial of any enlisted member *subject to this code*, but *that member*~~[he]~~ shall serve as a member of a court only if, before the conclusion of a session called by the military judge under KRS 35.195 prior to trial or, in the absence of such a session, before the court is assembled for the trial of the accused, the accused personally has requested *orally on the record or* in writing that enlisted *members*~~[persons]~~ serve on it. After such request the accused shall not be tried by a general or special court-martial the membership of which does not include enlisted persons in a number comprising at least one-third (1/3) of the total membership of the court, unless eligible *enlisted* members cannot be obtained on account of physical conditions or military exigencies. If enlisted members cannot be obtained, the court may be *assembled*~~[convened]~~ and the trial held without them, but the convening authority shall make a detailed written statement, to be appended to the record, stating why they could not be obtained.

~~[(b)]~~ For the purposes of this section, the word "unit" *means any regularly*~~[shall mean a duty]~~ organized body of the *state military forces*~~[National Guard or active militia]~~ not larger than a company,~~[or]~~ a squadron, *a division of the naval militia, or a body corresponding to one of them.*

~~(4)~~~~[(a)]~~ When it can be avoided, no~~[subject]~~ person *subject to this code may*~~[shall]~~ be tried by a court-martial any member of which is junior to *the accused*~~[him]~~ in rank or grade.

~~(5)~~~~[(b)]~~ When convening a court-martial, the convening authority shall detail as members thereof such *members of the state military forces*~~[persons]~~ as, in *the convening authority's*~~[his]~~ opinion, are best qualified for the duty by reason of age, education, training, experience, length of service, and judicial temperament. No member *of the state military forces* is eligible to serve as a member of a general or special court-martial when *that member*~~[he]~~ is the accuser,~~[or]~~ a witness~~[for the prosecution]~~, or has acted as investigating officer or as counsel in the same case.

➔Section 27. KRS 35.125 is amended to read as follows:

(1) *A military judge shall be detailed to each general and special court-martial. The military judge shall preside over each open session of the court-martial to which the military judge has been detailed.*

(2) *A military judge shall be:*

(a) *An active or retired commissioned officer of an organized state military force;*

(b) *A member in good standing of the bar of the highest court of a state or a member of the bar of a federal court for at least five (5) years; and*

(c) *Either:*

1. *A certified military judge; or*

2. *Certified as qualified for duty as a military judge by the senior force judge advocate which is the same force as the accused.*

(3) *In the instance when a military judge is not a member of the bar of the highest court of the state, the military judge shall be deemed admitted pro hac vice, subject to filing a certificate with the senior force judge advocate which is the same force as the accused setting forth the qualifications provided in subsection (2) of this section.*

(4) *The military judge of a general or special court-martial shall be designated by the senior force judge advocate which is the same force as the accused, or a designee, for detail by the convening authority. Neither the convening authority nor any staff member of the convening authority shall prepare or review any report concerning the effectiveness, fitness, or efficiency of the military judge so detailed, which relates to performance as a military judge.*

~~(5)~~ ~~[The authority convening a general or special court martial shall request the state judge advocate to detail as military judge thereof a commissioned officer who is a member of the bar of the highest court of a state.]~~ No person is eligible to act as military judge in a case if *that person*~~[he]~~ is the accuser,~~[or]~~ a witness~~[for the prosecution]~~, or has acted as investigating officer~~[,]~~ or ~~a~~~~[as]~~ counsel in the same case.

~~(6)~~~~[(2)]~~ The military judge *of a court-martial* may not consult with the members of the court except in the presence of the accused, trial counsel, and defense counsel, nor~~[may he]~~ vote with the members of the court.

➔Section 28. KRS 35.130 is amended to read as follows:

(1) (a) For each general and special court-martial the authority convening the court shall~~[request the state judge advocate to]~~ detail~~[a]~~ trial counsel,~~[and a]~~ defense counsel, and assistants as *are*~~[he considers]~~ appropriate.

(b) No person who has acted as investigating officer, military judge, or court member in any case *may*~~[shall]~~ act later as trial counsel, assistant trial counsel, or, unless expressly requested by the accused, as defense counsel or assistant *or associate* defense counsel in the same case. No person who has acted for the prosecution *may*~~[shall]~~ act later in the same case for the defense, nor *may*~~[shall]~~ any person who has acted for the defense act later in the same case for the prosecution.

~~(c)~~~~[(2)]~~ *Except as provided in subsection (2) of this section,* trial counsel and defense counsel *detailed* for a general and special court-martial *must be a judge advocate*~~[shall be members of the bar of the highest court of the state].~~

- (2) *In the instance when a defense counsel is not a member of the bar of the highest court of the state, the defense counsel shall be deemed admitted pro hac vice, subject to filing a certificate with the military judge setting forth qualifications that counsel is:*
- (a) *A commissioned officer of the Armed Forces of the United States or a component thereof; and*
 - (b) *A member in good standing of the bar of the highest court of a state; and*
 - (c) *Certified as a judge advocate in the Judge Advocate General's Corps of the Army, Air Force, Navy, or the Marine Corps; or*
 - (d) *A judge advocate.*

➔Section 29. KRS 35.140 is amended to read as follows:

Under such regulations as *may be prescribed*~~[the adjutant general may prescribe]~~, the convening authority of *a*~~[for each]~~ general or special court-martial *or court of inquiry shall detail or employ qualified court reporters, who shall record the proceedings of and testimony taken before that court and may detail or employ interpreters*~~[shall cause a complete record to be kept of all proceedings and testimony before the court. A competent court reporter shall be detailed to take a verbatim record of all general courts martial. A special court martial may not adjudge a bad conduct discharge unless a competent court reporter was detailed to take a verbatim record. The record of any other court martial, military commission or court of inquiry may be taken by a court reporter, a notary public, or other officer competent to swear witnesses and summarize testimony. The convening authority may appoint an interpreter] who shall interpret for the court~~~~[or commission]~~.

➔Section 30. KRS 35.145 is amended to read as follows:

- (1) No member of a general or special court-martial shall be absent or excused after the *court has been assembled for the trial of the* accused *unless excused as a result of a challenge, excused by the military judge*~~[has been arraigned except]~~ for physical disability or *other*~~[as a result of a challenge or by order of the convening authority for]~~ good cause, *or excused by order of the convening authority for good cause.*
- (2) Whenever a general court-martial, *other than a general court-martial composed of a military judge only*, is reduced below five (5) members, the trial may not proceed unless *the convening authority details new members sufficient in number to provide not less than the applicable minimum number of five (5) members. The trial may proceed with the new members present after the recorded evidence previously introduced before the members of the court has been read to the court in the presence of the military judge, the accused, and counsel for both sides*~~[specifically consented to by the accused and defense counsel. In such case a new trial may be ordered by the convening authority]~~.
- (3) Whenever a special court-martial, *other than a special court-martial composed of a military judge only*, is reduced below three (3) members, the trial may not proceed unless *the convening authority details new members sufficient in number to provide not less than three (3) members. The trial shall proceed with the new members present as if no evidence has been introduced previously at the trial, unless a verbatim record of the evidence previously introduced before the members of the court or a stipulation thereof is read to the court in the presence of the military judge, the accused, and counsel for both sides*~~[specifically consented to by the accused and defense counsel. In such case a new trial may be ordered by the convening authority]~~.
- (4) *If the military judge of a court-martial composed of a military judge only is unable to proceed with the trial because of physical disability, as a result of a challenge, or for other good cause, the trial shall proceed, subject to any applicable conditions in subsection (1)(b) or (2)(b) of Section 20 of this Act, after the detail of a new military judge as if no evidence had previously been introduced, unless a verbatim record of the evidence previously introduced or a stipulation thereof is read in court in the presence of the new military judge, the accused, and counsel for both sides.*

➔Section 31. KRS 35.150 is amended to read as follows:

- (1) Charges and specifications shall be signed by a ~~[subject]~~ person *subject to this code* under oath before a *commissioned officer*~~[person]~~ authorized by this chapter to administer oaths and shall state:
 - (a) That the signer has personal knowledge of, or has investigated, the matters set forth therein; and
 - (b) That *they*~~[the same]~~ are true in fact to the best of *the signer's*~~[his]~~ knowledge and belief.
- (2) Upon the preferring of charges, the proper authority shall take immediate steps to determine what disposition should be made thereof in the interest of justice and discipline, and the person accused shall be informed of the charges~~[against him]~~ as soon as practicable.

➔Section 32. KRS 35.155 is amended to read as follows:

- (1) No ~~subject~~ person **subject to this code may** ~~shall~~ compel any person to incriminate himself **or herself** or to answer any question the answer to which may tend to incriminate him **or her**.
- (2) No ~~subject~~ person **subject** to this code may interrogate or request any statement from an accused or a person suspected of an offense without first informing **that person** ~~him~~ of the nature of the accusation and advising **that person** ~~him~~ that **the person** ~~he~~ does not have to make any statement regarding the offense of which **the person** ~~he~~ is accused or suspected, **and** that any statement made by **the person** ~~him~~ may be used as evidence against **the person** ~~him~~ in a trial by court-martial, ~~that he has a right to consult with a lawyer, that he has a right to have a lawyer present during questioning, that he has a right to request a lawyer and that upon his request one (1) will be provided him without cost or, if he prefers, he may retain counsel of his choice at his own expense.~~
- (3) No ~~subject~~ person **subject to this code may** ~~shall~~ compel any person to make a statement or produce evidence before any military **court** ~~tribunal~~ if the statement or evidence is not material to the issue and may tend to degrade **the person** ~~him~~.
- (4) No statement obtained from any person in violation of this section, or through the use of coercion, unlawful influence, or unlawful inducement shall be received in evidence against **the person** ~~him~~ in a trial by court-martial.

~~{(5) The requirements of this section are binding on all persons administering this code but failure to follow them does not divest a military court of jurisdiction.}~~

➔Section 33. KRS 35.160 is amended to read as follows:

- (1) No charge or specification shall be referred to a general court-martial for trial until a thorough and impartial investigation of all the matters set forth therein has been made. This investigation shall include **inquiry** ~~inquiries~~ as to the truth of the matter set forth in the charges, **consideration of the** form of charges, and **a recommendation as to** the disposition which should be made of the case in the interest of justice and discipline.
- (2) The accused shall be advised of the charges against **the accused and of the** ~~him and of his~~ right to be represented **at that investigation** by counsel ~~at such investigation~~. **The accused has the right to be represented at that investigation as provided in Section 39 of this Act and in regulations prescribed under that section** ~~Upon his own request he shall be represented by civilian counsel if provided by him, or military counsel of his own selection if such counsel be reasonably available, or by counsel detailed by the state judge advocate~~. At **that** ~~such~~ investigation full opportunity shall be given to the accused to cross-examine witnesses against **the accused** ~~him~~ if they are available and to present anything **the accused** ~~he~~ may desire in **the accused's** ~~his~~ own behalf, either in defense or mitigation, and the investigating officer shall examine available witnesses requested by the accused. If the charges are forwarded after such investigation, they shall be accompanied by a statement of the substance of the testimony taken on both sides and a copy thereof shall be given to the accused.
- (3) If an investigation of the subject matter of an offense has been conducted **before** ~~prior to the time~~ the accused is charged with the offense, and if the accused was present at **the** ~~such~~ investigation and afforded the opportunities for representation, cross-examination, and presentation as prescribed in subsection (2) of this section, no further investigation of that charge is necessary under this section unless it is demanded by the accused after **the accused** ~~he~~ is informed of the charge. A demand for further investigation entitles the accused to recall witnesses for further cross-examination and to offer any new evidence in **the accused's** ~~his~~ own behalf.
- (4) **If evidence adduced in an investigation under this section indicates that the accused committed an uncharged offense, the investigating officer may investigate the subject matter of that offense without the accused having first been charged with the offense if the accused is:**
 - (a) **Present at the investigation;**
 - (b) **Informed of the nature of each uncharged offense investigated; and**
 - (c) **Afforded the opportunities for representation, cross-examination, and presentation prescribed in subsection (2) of this section.**

- (5) The requirements of this section ~~are~~ ~~shall be~~ binding on all persons administering this code, but failure to follow them **does not constitute jurisdictional error** ~~in any case shall not divest a military court of jurisdiction~~.

➔Section 34. KRS 35.165 is amended to read as follows:

When a person is held for trial by general court-martial, the commanding officer shall, within eight (8) days after the accused is ordered into arrest or confinement, if practicable, forward the charges, together with the investigation and allied papers, to the ~~person~~ ~~officer~~ exercising general court-martial jurisdiction. If ~~that~~ ~~the same~~ is not practicable, **the commanding officer** ~~he~~ shall report in writing to ~~that person~~ ~~such officer~~ the reasons for delay.

➔Section 35. KRS 35.170 is amended to read as follows:

- (1) Before directing the trial of any charge by general court-martial, the convening authority shall refer it to ~~a~~ ~~the state~~ judge advocate ~~or his staff judge advocate, as may be appropriate,~~ for consideration and advice. The convening authority ~~may~~ ~~shall~~ not refer a **specification under a** charge to a general court-martial for trial unless **the convening authority has been advised in writing by a judge advocate that:**

- (a) **The specification alleges an offense under this code;**
 (b) **The specification** ~~he has found that the charge alleges an offense under this code and~~ is warranted by evidence **indicated** in the report of investigation **under Section 33 of this Act, if there is a report; and**
 (c) **A court-martial would have jurisdiction over the accused and the offense.**

- (2) **The advice of the judge advocate under subsection (1) of this section with respect to a specification under a charge shall include a written and signed statement by the judge advocate:**

- (a) **Expressing conclusions with respect to each matter set forth in subsection (1) of this section; and**
 (b) **Recommending action that the convening authority take regarding the specification.**

If the specification is referred for trial, the recommendation of the judge advocate shall accompany the specification.

- ~~(3)~~~~(2)~~ If the charges or specifications are not formally correct or do not conform to the substance of the evidence contained in the report of the investigating officer, formal corrections and such changes in the charges and specifications as are needed to make them conform to the evidence may be made.

➔Section 36. KRS 35.175 is amended to read as follows:

The trial counsel ~~shall serve or~~ ~~to whom court-martial charges are referred for trial shall~~ cause to be served upon the accused a copy of the charges ~~upon which trial is to be had~~. No person ~~may~~ ~~shall~~, against **the person's** ~~his~~ objection, be brought to trial before a general court-martial **case** within a period of five (5) days ~~after~~ ~~subsequent to~~ the service of ~~the~~ charges upon **the person** ~~him~~, or ~~in~~ ~~before~~ a special court-martial, within a period of three (3) days ~~after~~ ~~subsequent to~~ the service of the charges upon **the accused** ~~him~~.

➔Section 37. KRS 35.180 is amended to read as follows:

Pretrial, trial, and post-trial procedures ~~The procedure~~, including modes of proof, ~~for~~ ~~in cases before~~ courts-martial **cases arising under this code, and for**~~,~~ courts of inquiry, ~~may~~ ~~military commissions, and other military tribunals shall~~ be prescribed by the Governor **or adjutant general** by regulations, **or as otherwise provided by law, which shall apply** ~~issued pursuant to this chapter which shall, so far as he deems practicable, apply the forms and modes of procedure,~~ the principles of law and the rules of evidence generally recognized in **military criminal cases** ~~the trial of cases~~ in the courts **of the Armed Forces but which may** ~~martial of the United States, but which shall~~ not be contrary to or inconsistent with this code.

➔Section 38. KRS 35.185 is amended to read as follows:

- (1) No authority convening a general ~~or~~~~,~~ special ~~or summary~~ court-martial, nor any other commanding officer, or officer serving on the staff thereof, ~~may~~ ~~shall~~ censure, reprimand, or admonish the court or any member, military judge, or counsel thereof, with respect to the findings or sentence adjudged by the court, or with respect to any other exercise of its or **their** ~~his~~ functions in the conduct of the proceeding. No person subject to this code ~~may~~ ~~shall~~ attempt to coerce or, by unauthorized means, influence the action of a court-martial or **court of inquiry** ~~any other military tribunal~~ or any member thereof in reaching the findings or sentence in any case, or the action of any convening, approving or reviewing authority with respect to **their** ~~his~~ judicial acts. The foregoing provisions shall not apply to:

- (a) General instructional or informational courses in military justice, if such courses are designed solely for the purpose of instructing members of a command in the substantive and procedural aspects of courts-martial; or
 - (b) Statements and instructions given in open court by the military judge or counsel.
- (2) In the preparation of an effectiveness, fitness, or efficiency report, or any other report or document used in whole or in part for the purpose of determining whether a member of the *state military forces* ~~[National Guard or active militia]~~ is qualified to be advanced in grade or in determining the assignment or transfer of a member of the *state military forces* ~~[National Guard or active militia]~~ or in determining whether a member of the *state military forces* ~~[National Guard or active militia]~~ should be retained on *active status* ~~[duty]~~, no person subject to this code may in preparing any such report:
- (a) Consider or evaluate the performance of duty of any such member as a member ~~[, military judge or trial counsel]~~ of a court-martial *or witness therein*; or
 - (b) Give a less favorable rating or evaluation of any ~~[member of the National Guard or active militia because of the zeal with which such member as]~~ counsel *of the* ~~[represented any]~~ accused *because of zealous representation* before a court-martial. ~~[This subsection is not applicable to evaluations made by the state judge advocate of the performance of personnel under his supervision.]~~

➔Section 39. KRS 35.190 is amended to read as follows:

- (1) The trial counsel of a general or special court-martial shall *be a member in good standing of the state bar and shall* prosecute in the name of the state, and shall, under the direction of the court, prepare the record of the proceedings.
- (2)
 - (a) The accused ~~has [shall have]~~ the right to be represented in ~~his~~ defense before a general or special court-martial *under Section 33 of this Act as provided in this subsection.*
 - (b) *The accused may be represented* by civilian counsel *at the provision and expense of the accused.*
 - (c) *The accused may be represented:*
 - 1. ~~[if provided by him, or]~~ By military counsel *detailed under Section 23 of this Act; or*
 - 2. *By military counsel of the accused's* ~~his~~ *own selection if that counsel is reasonably available as determined under paragraph (g) of this subsection.*
 - (d) *If the accused is represented by civilian counsel, military counsel detailed or selected under paragraph (c) of this subsection shall* ~~[, or by the defense counsel duly appointed pursuant to KRS 35.130. If the accused has counsel of his own selection the duly appointed defense counsel, and assistant defense counsel, if any, shall, if the accused so desires,] act as his associate counsel unless excused at the request of the accused~~ ~~[; otherwise they shall be excused by the military judge].~~
 - (e) *Except as provided under paragraph (f) of this subsection, if the accused is represented by military counsel of his own selection under paragraph (c)2. of this subsection, any military counsel detailed under paragraph (c)1. of this subsection shall be excused.*
 - (f) *The accused is not entitled to be represented by more than one military counsel. However, the person authorized under regulations prescribed under Section 28 of this Act to detail counsel, in that person's sole discretion:*
 - 1. *May detail additional military counsel as assistant defense counsel; and*
 - 2. *If the accused is represented by military counsel of the accused's own selection under paragraph (c)2. of this subsection, may approve a request from the accused that military counsel detailed under paragraph (c)1. of this subsection act as associate defense counsel.*
 - (g) *The senior force judge advocate of the same force of which the accused is a member, shall determine whether the military counsel selected by an accused is reasonably available.*
- (3) In ~~any [every]~~ court-martial proceeding *resulting in a conviction*, the defense counsel may:
 - (a) ~~[, in the event of conviction,]~~ Forward for attachment to the record of proceedings a brief of such matters as *counsel determines* ~~[he feels]~~ should be considered in behalf of the accused on review, including any objection to the contents of the record which *counsel* ~~he~~ may deem appropriate;
 - (b) *Assist the accused in the submission of any matter under Section 65 of this Act; and*

(c) *Take other action authorized by this code.*

~~{(4) An assistant trial counsel of a general court martial may, under the direction of the trial counsel, or when he is qualified to be a trial counsel as required by KRS 35.130, perform any duty imposed by law, regulation, or the custom of the service upon the trial counsel of the court. An assistant trial counsel of a special court martial may perform any duty of the trial counsel.~~

~~{(5) An assistant defense counsel of a general or special court martial may, under the direction of the defense counsel, or when he is qualified to be the defense counsel as required by KRS 35.130, perform any duty which, by law, regulation, or the custom of the service, is placed upon counsel for the accused. }~~

➔Section 40. KRS 35.195 is amended to read as follows:

(1) At any time after the service of charges which have been referred for trial to a court-martial composed of a military judge and members, the military judge may, ***subject to Section 36 of this Act***, call the court into session without the presence of the members for ***the purpose of***:

- (a) Hearing and determining motions raising defenses or objections which are capable of determination without trial of the issues raised by a plea of not guilty;~~{or}~~
- (b) Hearing and ruling upon any matter which may be ruled upon by the military judge ***under this code*** whether or not the matter is appropriate for later consideration or decision by the members of the court;~~{or}~~
- (c) ~~{If permitted by the regulations of the Governor }~~Holding the arraignment and receiving the pleas of the accused; and
- (d) Performing any other procedural function which~~{ may be performed by the military judge under KRS 35.180 which }~~ does not require the presence of the members of the court ***under this code***. These proceedings shall be conducted in the presence of the accused, defense counsel, and trial counsel and shall be made part of the record.

These proceedings may be conducted notwithstanding the number of court members and without regard to Section 30 of this Act.

(2) ***When the members of a court-martial deliberate or vote***~~{Whenever a general or special court martial deliberates or votes}~~, only the members~~{ of the court }~~ may be present. All other proceedings, including any consultation of the ***members of the*** court with counsel or the military judge shall be made part of the record and shall be in the presence of the accused, the defense counsel, the trial counsel, and the military judge.

➔Section 41. KRS 35.200 is amended to read as follows:

The military judge ~~of~~~~{or}~~ a court-martial~~{ without a military judge }~~ may, for reasonable cause, grant a continuance to any party for such time and as often as appears to be just.

➔Section 42. KRS 35.205 is amended to read as follows:

- (1) (a) The military judge and members of a general or special court-martial may be challenged by the accused or the trial counsel for cause stated to the court. The ***military judge or the*** court shall determine the relevancy and validity of challenges for cause, and ~~may~~~~{shall}~~ not receive a challenge to more than one (1) person at a time. Challenges by the trial counsel shall ordinarily be presented and decided before those by the accused are offered.
 - (b) ***If the exercise of a challenge for cause reduces the court below the minimum number of members required by Section 20 of this Act, all parties shall, notwithstanding Section 30 of this Act, either exercise or waive any challenge for cause then apparent against the remaining members of the court before additional members are detailed by the court. However, peremptory challenges shall not be exercised at that time.***
- (2) (a) Each accused and trial counsel is entitled to one (1) peremptory challenge ***of members of the court***. ~~The~~~~{, but the }~~ military judge may not be challenged except for cause.
 - (b) ***If the exercise of a peremptory challenge reduces the court below the minimum number of members required by Section 20 of this Act, the parties shall, notwithstanding Section 30 of this Act, either exercise or waive any remaining peremptory challenge not previously waived against the remaining members of the court before additional members are detailed to the court.***

- (c) *Whenever additional members are detailed to the court, and after any challenges for cause against such additional members are presented and decided, each accused and the trial counsel are entitled to one (1) peremptory challenge against members not previously subject to peremptory challenge.*

➔Section 43. KRS 35.210 is amended to read as follows:

- (1) *Before performing their respective duties, military judges, general and special courts-martial members, trial counsel, defense counsel, reporters and interpreters*~~[The military judge, all interpreters, and, in general and special courts martial, the members, the trial counsel, assistant trial counsel, the defense counsel, assistant defense counsel, and the reporter]~~ shall take an oath or affirmation in the presence of the accused to perform their duties faithfully.

The form of the oath or affirmation, the time and place of the taking thereof, the manner of recording the same, and whether the oath or affirmation shall be taken for all cases in which these duties are to be performed or for a particular case, shall be as prescribed in regulation or as provided by law. These regulations may provide that an oath or affirmation to perform faithfully the duties as a military judge, trial counsel, or defense counsel may be taken at any time by any judge advocate or other person certified or designated to be qualified or competent for the duty, and if such an oath or affirmation is taken, it need not again be taken at the time the judge advocate or other person is detailed to that duty.

- (2) *Each witness*~~[All witnesses]~~ before *a court-martial*~~[courts martial]~~ shall be examined on oath or affirmation.

➔Section 44. KRS 35.215 is amended to read as follows:

- (1) *Except as otherwise provided in this section*, a person charged with any offense is not liable to be tried by court-martial or punished under KRS 35.070 if the offense was committed more than *three (3)*~~[two (2)]~~ years before the receipt of sworn charges and specifications by an officer exercising~~[summary]~~ court-martial jurisdiction over the command or before the imposition of punishment under KRS 35.070.~~[Notwithstanding the foregoing, a prosecution for larceny and wrongful appropriation under KRS 35.670 against one who obtained the property lawfully and subsequently misappropriated it may be commenced within one (1) year after discovery of the loss, but in no case shall this extend the time limitation by more than five (5) years.]~~

- (2) *Periods in which the accused is absent without authority or fleeing from justice shall be excluded in computing the period of limitation prescribed in this article.*

- (3) Periods in which the accused was absent from territory in which the state has the authority to apprehend him, or in the custody of civil authorities, *or in the hands of the enemy*, shall be excluded in computing the period of limitation prescribed in this section.

- (4) *When the United States is at war, the running of any statute of limitations applicable to any offense under this code:*

- (a) *Involving fraud or attempted fraud against the United States, any state, or any agency of either in any manner, whether by conspiracy or not;*
- (b) *Committed in connection with the acquisition, care, handling, custody, control, or disposition of any real or personal property of the United States or any state; or*
- (c) *Committed in connection with the negotiation, procurement, award, performance, payment, interim financing, cancellation, or other termination or settlement, of any contract, subcontract, or purchase order which is connected with or related to the prosecution of the war, or with any disposition of termination inventory by any war contractor or government agency;*

is suspended until two (2) years after the termination of hostilities as proclaimed by the President or by a joint resolution of Congress.

- (5) *"War," as used in subsection (4) of this section, means a period of war declared by Congress or the factual determination by the President that the existence of hostilities warrants a finding that a time of war exists.*

- (6) (a) *If charges or specifications are dismissed as defective or insufficient for any cause and the period prescribed by the applicable statute of limitations:*

1. *Has expired; or*

2. *Will expire within one hundred eighty (180) days after the date of dismissal of the charges and specifications;*

trial and punishment under new charges and specifications are not barred by the statute of limitations if the conditions specified in paragraph (b) of this subsection are met.

(b) *The conditions referred to in paragraph (a) of this subsection are that the new charges and specifications must:*

1. *Be received by a commander within one hundred eighty (180) days after the dismissal of the charges or specifications; and*
2. *Allege the acts or omissions that were alleged in the dismissed charges or specifications.*

➔Section 45. KRS 35.220 is amended to read as follows:

- (1) No person *may, without his consent,*~~shall~~ be tried a second time ~~by a court of the state~~ for the same offense.
- (2) No proceeding in which an accused has been found guilty by a court-martial upon any charge or specification ~~is shall be held to be~~ a trial in the sense of this section until the finding of guilty has become final after review of the case has been fully completed.
- (3) A proceeding which, ~~after~~~~subsequent to~~ the introduction of evidence but *before*~~prior to~~ a finding, is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses without any fault of the accused shall be a trial in the sense of this section.

➔Section 46. KRS 35.225 is amended to read as follows:

- (1) If an accused *after arraignment*~~arraigned before a court martial~~ makes any irregular pleading, or, after a plea of guilty, sets up matter inconsistent with the plea, or if it appears that *the accused*~~he~~ has entered the plea of guilty improvidently or through lack of understanding of its meaning and effect, or if *the accused*~~he~~ fails or refuses to plead, a plea of not guilty shall be entered in the record and the court shall proceed as though he had pleaded not guilty.
- (2) With respect to any charge or specification to which a plea of guilty has been made by the accused and accepted by the military judge or by a court-martial without a military judge, a finding of guilty of the charge or specification may~~, if permitted by the regulations of the Governor,~~ be entered immediately without vote. This finding shall constitute the finding of the court unless the plea of guilty is withdrawn prior to the announcement of the sentence, in which event the proceedings shall continue as though the accused had pleaded not guilty.

➔Section 47. KRS 35.230 is amended to read as follows:

~~{(1)—}~~The trial counsel, defense counsel, and the court-martial shall have equal opportunity to obtain witnesses and other evidence *as prescribed by*~~in accordance with~~ regulations *and provided by law. Process issued in court-martial cases to compel witness to appear and testify and to compel the production of other evidence shall apply the principles of law and the rules of courts-martial generally recognized in military criminal cases in the courts of the Armed Forces of the United States, but which may not be contrary to or inconsistent with this code. Process shall run to any part of the United States, or the Territories, Commonwealths, and possessions, and may be executed by civil officers as prescribed by the laws of the place where the witness or evidence is located or of the United States*~~issued by the Governor pursuant to this chapter.~~

~~(2)—~~The military judge of a court martial or a summary court officer may:

- ~~(a)—~~ Issue a warrant for the arrest of any accused person, who, having been served with a warrant and a copy of the charges, disobeys a written order by the convening authority to appear before the court;
- ~~(b)—~~ Issue subpoenas duces tecum and other subpoenas;
- ~~(c)—~~ Enforce by attachment the attendance of witnesses and the production of books and papers].

➔Section 48. KRS 35.235 is amended to read as follows:

(1) *Any*~~Every~~ person not subject to this code, who~~, after the following two (2) provisions have been complied with, willfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or to produce any evidence which such person may have been duly subpoenaed to produce, shall be deemed guilty of an offense against the state:~~

- (a) Has been duly subpoenaed to appear as a witness or to produce books and records before *a*~~any~~ court-martial~~, military commission~~ or court of inquiry, or before any military or civil officer designated to

take a deposition to be read in evidence before such a ~~court martial, commission or~~ court ~~of inquiry~~; ~~and~~

- (b) Has been duly paid or tendered the fees and mileage of a witness at the rates allowed to witnesses attending a *criminal court* ~~Circuit Court~~ of the state; *and*
- (c) *Willfully neglects or refuses to appear, or refuses to qualify as a witness or to testify or to produce any evidence which that person may have been legally subpoenaed to produce;*

May be punished by the military court in the same manner as a criminal court of the state.

- (2) *The fees and mileage of witnesses shall be advanced or paid out of the appropriations for the compensation of witnesses* ~~Upon the certification of the facts under subsection (1) by the military court or tribunal to the Commonwealth's attorney of the county where the offense occurred, the Commonwealth's attorney shall prosecute the accused in Circuit Court and jurisdiction is hereby conferred upon such courts for this purpose. If convicted, the person may be fined not more than two hundred fifty dollars (\$250) or imprisoned not more than thirty (30) days or both.~~

➔ Section 49. KRS 35.240 is amended to read as follows:

- (1) A military *judge* ~~court~~ may punish for contempt any person ~~subject to this code~~ who uses any disrespectful *word, sign, or gesture* ~~words, signs, or gestures~~ in its presence, or who disturbs its proceedings by any riot or disorder.
- (2) *A person subject to this code may be punished for contempt by confinement not to exceed thirty (30) days or a fine of one hundred dollars (\$100), or both.*
- (3) Any person not subject to this code ~~who engages in conduct described in subsection (1) of this section~~ may be *punished for contempt by a military court in the same manner as a criminal court of the state* ~~fined not more than two hundred and fifty dollars (\$250) or imprisoned not more than thirty (30) days or both. Upon certification of the facts by the military court or tribunal to the Commonwealth's attorney of the county where the offense occurred, the Commonwealth's attorney shall prosecute the accused in Circuit Court and jurisdiction is hereby conferred upon such courts for this purpose.~~

➔ Section 50. KRS 35.245 is amended to read as follows:

- (1) At any time after charges have been signed as provided in KRS 35.150, any party may take *oral or written* depositions *unless the military judge hearing the case, or, if the case is not being heard, an authority competent to convene a court-martial for the trial of those charges forbids it for good cause.* ~~If a deposition is to be taken before charges are referred for trial, the trial authority may designate officers to represent the prosecution and the defense and may authorize such officers to take the depositions of any witness.~~
- (2) The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition.
- (3) Depositions may be taken before and authenticated by any military or civil officer authorized by the laws of the state or by the laws of the place where the deposition is taken to administer oaths.
- (4) A duly authenticated deposition taken upon reasonable notice to the other *parties* ~~party~~, so far as otherwise admissible under the rules of evidence, may be read in evidence *or, in the case of audiotape, videotape, digital image or file, or similar material, may be placed in evidence* before any ~~court martial,~~ military ~~commission or in any proceeding before a~~ court ~~of inquiry~~, if it appears:
 - (a) That the witness resides or is beyond the state in which the ~~court martial, military commission or~~ court ~~of inquiry~~ is ordered to sit, or beyond ~~the distance of~~ one hundred (100) miles from the place of trial or hearing;
 - (b) That the witness, by reason of death, age, sickness, bodily infirmity, imprisonment, military necessity, nonamenability to process, or other reasonable cause, is unable or refuses to appear and testify in person at the place of trial or hearing; or
 - (c) That the present whereabouts of the witness is unknown.

➔ Section 51. KRS 35.250 is amended to read as follows:

- (1) *In any case not extending to the dismissal of a commissioned officer, the sworn testimony, contained in the duly authenticated record of proceedings of a court of inquiry, of a person whose oral testimony cannot be obtained, may, if otherwise admissible under the rules of evidence, be read in evidence by any party before a*

court-martial if the accused was a party before the court of inquiry and if the same issue was involved or if the accused consents to the introduction of such evidence.

- (2) *Such testimony may be read in evidence only by the defense in cases extending to the dismissal of a commissioned officer.*
- (3) *Such testimony may also be read in evidence before a court of inquiry*~~[Records of courts of inquiry are not admissible as evidence in any court martial].~~

➔SECTION 52. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

- (1) *It is an affirmative defense in a trial by court-martial that, at the time of the commission of the acts constituting the offense, the accused, as a result of severe mental disease or defect, was unable to appreciate the nature and quality or the wrongfulness of the acts. Mental disease or defect does not otherwise constitute a defense.*
- (2) *The accused has the burden of proving the defense of lack of mental responsibility by clear and convincing evidence.*
- (3) *Whenever lack of mental responsibility of the accused with respect to an offense is properly at issue, the military judge shall instruct the members of the court as to the defense of lack of mental responsibility under this section and charge them to find the accused:*
 - (a) *Guilty;*
 - (b) *Not guilty; or*
 - (c) *Not guilty only by reason of lack of mental responsibility.*
- (4) *Subsection (3) of this section does not apply to a court-martial composed of a military judge only. In the case of a court-martial composed of a military judge only, whenever lack of mental responsibility of the accused with respect to an offense is properly at issue, the military judge shall find the accused:*
 - (a) *Guilty;*
 - (b) *Not guilty; or*
 - (c) *Not guilty only by reason of lack of mental responsibility.*
- (5) *Notwithstanding the provisions of Section 54 of this Act, the accused shall be found not guilty only by reason of lack of mental responsibility if:*
 - (a) *A majority of the members of the court-martial present at the time the vote is taken determines that the defense of lack of mental responsibility has been established; or*
 - (b) *In the case of a court-martial composed of a military judge only, the military judge determines that the defense of lack of mental responsibility has been established.*

➔Section 53. KRS 35.255 is amended to read as follows:

- (1) Voting by members of a general or special court-martial~~[upon questions of challenge,]~~ on the findings~~[,]~~ and on the sentence~~[,]~~ shall be by secret written ballot. The junior member of the court shall~~[in each case]~~ count the votes. ~~The~~~~[, which]~~ count shall be checked by the president, who shall forthwith announce the result of the ballot to the members of the court.
- (2) The military judge~~[of a general or special court martial]~~ shall rule upon *all questions of law and* interlocutory questions~~[, other than challenge,]~~ arising during the proceedings. Any such ruling made by the military judge upon any *question of law or any* interlocutory question other than *the factual issue of mental responsibility of the accused is final and constitutes*~~[a motion for a finding of not guilty, or the question of accused's sanity, shall be final and shall constitute]~~ the ruling of the court. *However;*~~[but]~~ the military judge may change ~~the~~~~[any such]~~ ruling at any time during the trial. Unless ~~the~~~~[such]~~ ruling ~~is~~~~[be]~~ final, if any member objects thereto, the court shall be cleared and closed and the question decided by a *voice* vote as provided in KRS 35.260~~[viva voce]~~, beginning with the junior in rank.
- (3) Before a vote is taken on the findings, the military judge shall, in the presence of the accused and counsel, instruct the *members of the* court as to the elements of the offense and charge ~~them~~~~[the court as follows]~~:
 - (a) That the accused must be presumed to be innocent until his guilt is established by legal and competent evidence beyond reasonable doubt;

- (b) That in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt shall be resolved in favor of the accused and he shall be acquitted;
 - (c) That if there is a reasonable doubt as to the degree of guilt, the finding must be in a lower degree as to which there is no reasonable doubt; and
 - (d) That the burden of proof to establish the guilt of the accused beyond reasonable doubt is upon the state.
- (4) Subsections (1), (2) and (3) of this section do not apply to a court-martial composed of a military judge only. The military judge of such a court-martial shall determine all questions of law and fact~~[-finding]~~ arising during the proceedings and, if the accused is convicted, adjudge an appropriate sentence. The military judge of such a court-martial shall make a general finding and shall in addition on request find the facts specially. If an opinion or memorandum decision is filed, it will be sufficient if the findings of fact appear therein.

➔Section 54. KRS 35.260 is amended to read as follows:

- (1) No person *may*~~[-shall]~~ be convicted of *an*~~[-any]~~ offense except *as provided in subsection (2) of Section 46 of this Act or by the*~~[-by the unanimous]~~ concurrence of *two-thirds (2/3) of* the members present at the time the vote is taken.
- (2) ~~[-All sentences shall be determined by the unanimous concurrence of the members present at the time the vote is taken.]~~
- ~~[-(3)]~~ All other questions to be decided by the members of a general or special court-martial shall be determined by a majority vote, *but a determination to reconsider a finding of guilty or to reconsider a sentence, with a view toward decreasing it, may be made by any lesser vote which indicates that the reconsideration is not opposed by the number of votes required for that finding or sentence.* A tie vote on a challenge *disqualifies*~~[-shall disqualify]~~ the member challenged. A tie vote on a motion~~[-for a finding of not guilty or on a motion]~~ relating to the question of the accused's sanity *is*~~[-shall be]~~ a determination against the accused. A tie vote on any other question shall be a determination in favor of the accused.

➔Section 55. KRS 35.265 is amended to read as follows:

~~[-Every]~~ court-martial shall announce its findings and sentence to the parties as soon as determined.

➔Section 56. KRS 35.270 is amended to read as follows:

- (1) *Each general and special court-martial shall keep a separate record of the proceedings in each case before it, and the record shall be*~~[-Upon request of the accused or a reviewing authority, or the state judge advocate, the record of a general or special court-martial shall be transcribed and]~~ authenticated by the *signature of*~~[-president and]~~ the military judge. If the record cannot be authenticated by~~[- either the president or]~~ the military judge by reason of his death, disability or absence, it shall be *authenticated by the signature of the trial counsel or by that of a member, if the trial counsel is unable to authenticate it by reason of his or her death, disability, or absence. In a court-martial consisting of only a military judge, the record shall be authenticated by the court reporter under the same conditions which would impose such a duty on a member under this subsection*~~[-signed by a member in lieu of him. If both the president and the military judge are unavailable, the record shall be authenticated by two (2) members. In all other courts-martial, records of trial shall contain such matter and be authenticated in such manner as the Governor by regulation prescribes].~~
- (2) (a) *A complete verbatim*~~[-copy of the]~~ record of *the proceedings and testimony shall be prepared in* each general and special court-martial *case resulting in a conviction; and*
- (b) *In all other court-martial cases, the record shall contain such matters as may be prescribed by regulations.*
- (3) *A copy of the record of the proceedings of each general and special court-martial shall be given to the accused as soon as it is authenticated*~~[-shall be given to the accused as soon as it is authenticated].~~

➔Section 57. KRS 35.275 is amended to read as follows:

- ~~[-(1)]~~ The punishment which a court-martial may direct for an offense shall not exceed the limits prescribed by this code.
- ~~[-(2)]~~ Punishment by flogging, or by branding, marking, or tattooing on the body, or any other cruel or unusual punishment *may*~~[-shall]~~ not be adjudged by *a*~~[-any]~~ court-martial or inflicted upon any~~[-subject]~~ person *subject to this code.* The use of irons, single or double, except for the purpose of safe custody, is prohibited.

➔SECTION 58. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

- (1) *The punishment which a court-martial may direct for an offense may not exceed such limits as prescribed by this code, but in no instance may a sentence exceed more than ten (10) years for a military offense, nor shall a sentence of death be adjudged. A conviction by general court-martial of any military offense for which an accused may receive a sentence of confinement for more than one (1) year is a felony offense. All other military offenses are misdemeanors.*
- (2) *The limits of punishment for violations of the punitive articles prescribed in this code shall be lesser of the sentences prescribed by the manual for courts-martial of the United States in effect on January 1, 2004, and the state manual for courts-martial, but in no instance shall any punishment exceed that authorized by this code.*

➔Section 59. KRS 35.280 is amended to read as follows:

- (1) Whenever a sentence of a court-martial, as lawfully adjudged and approved, includes a forfeiture of pay or allowances in addition to confinement not suspended, the forfeiture may apply to pay or allowances becoming due on or after the date ~~the~~~~such~~ sentence is approved by the convening authority. No forfeiture may extend to any pay or allowances accrued before that date.
- (2) Any period of confinement included in a sentence of a court-martial ~~begins~~~~shall begin~~ to run from the date the sentence is adjudged by the court-martial, but periods during which the sentence to confinement is suspended *or deferred* shall be excluded in computing the service of the term of confinement.
- (3) All other sentences of *courts-martial* ~~are~~~~court martial shall become~~ effective on the date ordered executed.~~[In no case may a sentence be executed until final action is taken on review.]~~

➔SECTION 60. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

- (1) *On application by an accused who is under sentence to confinement that has not been ordered executed, the convening authority or, if the accused is no longer under that person's jurisdiction, the person exercising general court-martial jurisdiction over the command to which the accused is currently assigned, may in that person's sole discretion defer service of the sentence of confinement. The deferment shall terminate when the sentence is ordered executed. The deferment may be rescinded at any time by the person who granted it or, if the accused is no longer under that person's jurisdiction, by the person exercising general court-martial jurisdiction over the command to which the accused is currently assigned.*
- (2) (a) *In any case in which a court-martial sentences an accused referred to in paragraph (b) of this subsection to confinement, the convening authority may defer the service of the sentence to confinement, without the consent of the accused, until after the accused has been permanently released to the state military forces by a state, the United States, or a foreign country referred to in paragraph (b) of this subsection.*
 (b) *Paragraph (a) of this subsection applies to a person subject to this code who:*
 1. *While in the custody of a state, the United States, or a foreign country is temporarily returned by that state, the United States, or a foreign country to the state military forces for trial by court-martial; and*
 2. *After the court-martial, is returned to that state, the United States, or a foreign country under the authority of an agreement or treaty, as the case may be.*
 (c) *In this subsection, the term "state" includes the District of Columbia and any commonwealth, territory, or possession of the United States.*
- (3) *In any case in which a court-martial sentences an accused to confinement and the sentence to confinement has been ordered executed, but in which review of the case under Section 71 of this Act is pending, the adjutant general may defer further service of the sentence to confinement while that review is pending.*

➔Section 61. KRS 35.285 is amended to read as follows:

- (1) A sentence of confinement adjudged by a *court-martial, whether or not the sentence includes discharge or dismissal, and whether or not the discharge or dismissal has been executed,*~~[military court]~~ may be carried into execution by confinement in any place *authorized by this code. Persons so confined are*~~[of confinement under the control of the National Guard or active militia, or in any jail, penitentiary or prison designated for that purpose as prescribed in KRS 35.055; and persons so confined in such a jail, penitentiary or prison shall be]~~ subject to the same discipline and treatment as persons *regularly* confined or committed to *that place*~~[such jail, penitentiary or prison by the courts of the state].~~

- (2) ~~[The omission of the words "hard labor" in any sentence of a court-martial adjudging confinement shall not be construed as depriving the authority executing such sentence of the power to require hard labor as a part of the punishment.~~
- (3) ~~The jailers, officers and wardens of all jails, penitentiaries or prisons designated pursuant to KRS 35.055 shall receive the bodies of persons ordered into confinement prior to trial and of persons committed to confinement by the process or mandate of a military court and shall confine them according to law, and }No *place of confinement may*[such jailer, officer or warden shall demand or] require payment of any fee or charge[~~of any nature~~] for receiving or confining a person *except as otherwise provided by law*[in such jail, penitentiary or prison].~~

➔SECTION 62. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

- (1) *A court-martial sentence of an enlisted member in a pay grade above E-1, as approved by the convening authority, shall reduce that member to pay grade E-1, effective on the date of that approval, when it includes:*
- (a) *A dishonorable or bad-conduct discharge; or*
- (b) *Confinement.*
- (2) *If the sentence of a member who is reduced in pay grade under subsection (1) of this section is set aside or disapproved, or, as finally approved, does not include any punishment named in subsection (1)(a) or (b) of this section, the rights and privileges of which the person was deprived because of that reduction shall be restored, including pay and allowances.*

➔SECTION 63. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *A court-martial sentence described in paragraph (b) of this subsection shall result in the forfeiture of pay, or of pay and allowances, due that member during any period of confinement or parole. The forfeiture pursuant to this article shall take effect on the date determined under Section 60 of this Act and may be deferred as provided by that section. The pay and allowances forfeited, in the case of a general court-martial, shall be all pay and allowances due that member during that period and, in the case of a special court-martial, shall be two-thirds(2/3) of all pay due that member during that period.*
- (b) *A sentence covered by this section is any sentence that includes:*
1. *Confinement for more than six (6) months; or*
 2. *Confinement for six (6) months or less and a dishonorable or bad-conduct discharge or dismissal.*
- (2) *In a case involving an accused who has dependents, the convening authority or other person acting under Section 65 of this Act may waive any or all of the forfeitures of pay and allowances required by subsection (1) of this section for a period not to exceed six (6) months. Any amount of pay or allowances that, except for a waiver under this subsection, would be forfeited shall be paid, as the convening authority or other person taking action directs, to the dependents of the accused.*
- (3) *If the sentence of a member who forfeits pay and allowances under subsection (1) of this section is set aside or disapproved or, as finally approved, does not provide for a punishment referred to in subsection (1)(b) of this section, the member shall be paid the pay and allowances which the member would have been paid, except for the forfeiture, for the period during which the forfeiture was in effect.*

➔Section 64. KRS 35.325 is amended to read as follows:

- (1) A finding or sentence of a court-martial ~~may~~~~[shall]~~ not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.
- (2) *A reviewing authority with the power to approve or affirm a finding of guilty may approve or affirm, instead, so much of the finding as includes a lesser included offense.*

➔SECTION 65. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

- (1) *The findings and sentence of a court-martial shall be reported promptly to the convening authority after the announcement of the sentence.*

- (2) (a) *The accused may submit to the convening authority matters for consideration by the convening authority with respect to the findings and the sentence. Any such submission shall be in writing. Such a submission shall be made within ten (10) days after the accused has been given an authenticated record of trial and, if applicable, the recommendation of a judge advocate under subsection (4) of this section.*
- (b) *If the accused shows that additional time is required for the accused to submit such matters, the convening authority or other person taking action under this section, for good cause, may extend the applicable period under paragraph (a) of this subsection for not more than an additional twenty (20) days.*
- (c) *The accused may waive the right to make a submission to the convening authority under paragraph (a) of this subsection. A waiver must be made in writing and may not be revoked. For the purposes of subsection (3)(b) of this section, the time within which the accused may make a submission under this subsection shall be deemed to have expired upon the submission of a waiver to the convening authority.*
- (3) (a) *The authority under this section to modify the findings and sentence of a court-martial is a matter of command prerogative involving the sole discretion of the convening authority. If it is impractical for the convening authority to act, the convening authority shall forward the case to a person exercising general court-martial jurisdiction who may take action under this section.*
- (b) *Action on the sentence of a court-martial shall be taken by the convening authority or by another person authorized to act under this section. The action may be taken only after consideration of any matters submitted by the accused under subsection (2) of this section or after the time for submitting such matters expires, whichever is earlier. The convening authority or other person taking the action, in that person's sole discretion may approve, disapprove, commute, or suspend the sentence in whole or in part.*
- (c) *Action on the findings of a court-martial by the convening authority or other person acting on a sentence is not required. However, such person, in the person's sole discretion may:*
1. *Dismiss any charge or specification by setting aside a finding of guilty thereto; or*
 2. *Change a finding of guilty to a charge or specification to a finding of guilty to any offense that is a lesser included offense of the offense stated in the charge or specification.*
- (4) *Before acting under this section on any general or special court-martial case in which there is a finding of guilty, the convening authority or other person taking action under this section shall obtain and consider the written recommendation of a judge advocate. The convening authority or other person taking action under this section shall refer the record of trial to the judge advocate, and the judge advocate shall use that record in the preparation of the recommendation. The recommendation of the judge advocate shall include such matters as may be prescribed by regulation and shall be served on the accused, who may submit any matter in response under subsection (2) of this section. Failure to object in the response to the recommendation or to any matter attached to the recommendation waives the right to object thereto.*
- (5) (a) *The convening authority or other person taking action under this section, in the person's sole discretion, may order a proceeding in revision or a rehearing.*
- (b) *A proceeding in revision may be ordered if there is an apparent error or omission in the record or if the record shows improper or inconsistent action by a court-martial with respect to the finding or sentence that can be rectified without material prejudice to the substantial rights of the accused. In no case, however, may a proceeding in revision:*
1. *Reconsider a finding of not guilty of any specification or a ruling which amounts to a finding of not guilty;*
 2. *Reconsider a finding of not guilty of any charge, unless there has been a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of some section of this code; or*
 3. *Increase the severity of the sentence unless the sentence prescribed for the offense is mandatory.*
- (c) *A rehearing may be ordered by the convening authority or other person taking action under this article if that person disapproves the findings and sentence and states the reasons for disapproval of*

the findings. If that person disapproves the findings and sentence and does not order a rehearing, that person shall dismiss the charges. A rehearing as to the findings may not be ordered where there is a lack of sufficient evidence in the record to support the findings. A rehearing as to the sentence may be ordered if the convening authority or other person taking action under this subsection disapproves the sentence.

➔SECTION 66. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

- (1) *In each case subject to appellate review under this code, the accused may file with the convening authority a statement expressly withdrawing the right of the accused to an appeal. A withdrawal shall be signed by both the accused and his defense counsel and must be filed in accordance with appellate procedures as provided by law.*
- (2) *The accused may withdraw an appeal at any time in accordance with appellate procedures as provided by law.*

➔SECTION 67. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *In a trial by court-martial in which a punitive discharge may be adjudged, the state may appeal the following, other than a finding of not guilty with respect to the charge or specification by the members of the court-martial, or by a judge in a bench trial so long as it is not made in reconsideration:*
 1. *An order or ruling of the military judge which terminates the proceedings with respect to the charge or specification;*
 2. *An order or ruling which excludes evidence that is substantial proof of a fact material in the proceeding;*
 3. *An order or ruling which directs the disclosure of classified information;*
 4. *An order or ruling which imposes sanctions for nondisclosure of classified information;*
 5. *A refusal of the military judge to issue a protective order sought by the state to prevent the disclosure of classified information; and*
 6. *A refusal by the military judge to enforce an order described in subparagraph 5. of this paragraph that has previously been issued by the appropriate authority.*
- (b) *An appeal of an order or ruling may not be taken unless the trial counsel provides the military judge with written notice of appeal from the order or ruling within seventy-two (72) hours of the order or ruling. The notice shall include a certification by the trial counsel that the appeal is not taken for the purpose of delay and, if the order or ruling appealed is one which excludes evidence, that the evidence excluded is substantial proof of a fact material in the proceeding.*
- (c) *An appeal under this section shall be diligently prosecuted as provided by law.*
- (2) *An appeal under this section shall be forwarded to the court prescribed in Section 71 of this Act. In ruling on an appeal under this section, that court may act only with respect to matters of law.*
- (3) *Any period of delay resulting from an appeal under this section shall be excluded in deciding any issue regarding denial of a speedy trial unless an appropriate authority determines that the appeal was filed solely for the purpose of delay with the knowledge that it was totally frivolous and without merit.*

➔Section 68. KRS 35.310 is repealed, reenacted as a new section of KRS Chapter 35, and amended to read as follows:

Each rehearing under this code shall take place before a court-martial composed of members who were not members of the court-martial which first heard the case.

- ~~(1) If the convening authority disapproves the findings and sentence of a court martial he may, except where there is lack of sufficient evidence in the record to support the findings, order a rehearing, in which case he shall state the reasons for disapproval. If he disapproves the findings and sentence and does not order a rehearing, he shall dismiss the charges.~~
- ~~(2) Every rehearing shall take place before a court martial whose composition shall not include any member or military judge of the court martial which first heard the case.] Upon a[such] rehearing the accused may[shall] not be tried for any offense of which *the accused*[he] was found not guilty by the first court-martial, and no~~

sentence in excess of or more severe than the original sentence *may be approved*, ~~[shall be imposed]~~ unless the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings, or unless the sentence prescribed for the offense is mandatory. *If the sentence approved after the first court-martial was in accordance with a pretrial agreement and the accused at the rehearing changes a plea with respect to the charges or specifications upon which the pretrial agreement was based, or otherwise does not comply with the pretrial agreement, the approved sentence as to those charges or specifications may include any punishment not in excess of that lawfully adjudged at the first court-martial.*

➔SECTION 69. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

- (1) *Each general and special court-martial case in which there has been a finding of guilty shall be reviewed by the senior force judge advocate, or a designee. The senior force judge advocate or designee may not review a case under this subsection if that person has acted in the same case as an accuser, investigating officer, member of the court, military judge, or counsel or has otherwise acted on behalf of the prosecution or defense. The senior force judge advocate's review shall be in writing and shall contain the following:*
 - (a) *Conclusions as to whether:*
 1. *The court had jurisdiction over the accused and the offense;*
 2. *The charge and specification stated an offense; and*
 3. *The sentence was within the limits prescribed as a matter of law.*
 - (b) *A response to each allegation of error made in writing by the accused.*
 - (c) *If the case is sent for action under subsection (2) of this section, a recommendation as to the appropriate action to be taken and an opinion as to whether corrective action is required as a matter of law.*
- (2) *The record of trial and related documents in each case reviewed under subsection (1) of this section shall be sent for action to the adjutant general if:*
 - (a) *The judge advocate who reviewed the case recommends corrective action;*
 - (b) *The sentence approved under subsection (3) of Section 65 of this Act extends to dismissal, a bad-conduct or dishonorable discharge, or confinement for more than six (6) months; or*
 - (c) *Action is otherwise required by regulations of the adjutant general.*
- (3) (a) *The adjutant general may:*
 1. *Disapprove or approve the findings or sentence, in whole or in part;*
 2. *Remit, commute, or suspend the sentence in whole or in part;*
 3. *Except where the evidence was insufficient at the trial to support the findings, order a rehearing on the findings, on the sentence, or on both; or*
 4. *Dismiss the charges.*
 - (b) *If a rehearing is ordered but the convening authority finds a rehearing impracticable, the convening authority shall dismiss the charges.*
 - (c) *If the opinion of the senior force judge advocate, or designee, in the senior force judge's review under subsection (1) of this section is that corrective action is required as a matter of law and if the adjutant general does not take action that is at least as favorable to the accused as that recommended by the judge advocate, the record of trial and action thereon shall be sent to the Governor for review and action as deemed appropriate.*
- (4) *The senior force judge advocate, or a designee, may review any case in which there has been a finding of not guilty of all charges and specifications. The senior force judge advocate, or designee, may not review a case under this subsection if that person has acted in the same case as an accuser, investigating officer, member of the court, military judge, or counsel or has otherwise acted on behalf of the prosecution or defense. The senior force judge advocate's review shall be limited to questions of subject matter jurisdiction.*
- (5) *The record of trial and related documents in each case reviewed under subsection (4) of this section shall be sent to the adjutant general. The adjutant general may:*

- (a) *When subject matter jurisdiction is found to be lacking, void the court-martial ab initio, with or without prejudice to the government, as the adjutant general deems appropriate; or*
- (b) *Return the record of trial and related documents to the senior force judge advocate for appeal by the government as provided by law.*

➔Section 70. KRS 35.320 is repealed, reenacted as a new section of KRS Chapter 35, and amended to read as follows:

Except as otherwise required by this code, all records of trial and related documents shall be transmitted and disposed of as prescribed by regulation and provided by law~~[(1) If the convening authority is the Governor, he shall refer the record of courts martial to the state judge advocate who shall submit his written opinion to the Governor. If the final action of the court has resulted in acquittal of all charges and specifications, the opinion shall be limited to questions of jurisdiction. After consideration of the opinion, the Governor's action on review of any record is final.~~

- (2) (a) ~~Except as provided in subsection (1) of this section, the convening authority may refer the record of a general court martial to the staff judge advocate designated by the state judge advocate who shall submit his written opinion to the convening authority. If the final action of the court has resulted in an acquittal of all charges and specifications, the opinion shall be limited to questions of jurisdiction. When the convening authority has taken final action he shall forward the entire record, including his action thereon and the opinion of the staff judge advocate, to the state judge advocate for review.~~
- (b) ~~In a case reviewable by the state judge advocate under this section, the state judge advocate may act only with respect to the findings and sentence as approved by the convening authority. He may affirm only the findings of guilty, and the sentence or part or amount of the sentence, as he finds correct in law and fact and determined on the basis of the entire record, should be approved. In considering the record he may weigh the evidence, judge the credibility of witnesses and determine controverted questions of fact, recognizing that the trial court saw and heard the witnesses. If the state judge advocate sets aside the findings and sentence, he may, except where the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If he sets aside the findings and sentence and does not order a rehearing, he shall order that the charges be dismissed.~~
- (c) ~~The state judge advocate shall instruct the convening authority to act in accordance with his decision on the review. If he has ordered a rehearing, but the convening authority finds a rehearing impracticable, he may dismiss the charges.~~
- (3) ~~Except as provided in subsection (1) of this section, the convening authority of any summary or special court martial, after taking final action on review, shall forward the entire record, including his action thereon, to the staff judge advocate designated by the state judge advocate. The staff judge advocate has the duties and powers as provided for the state judge advocate in paragraphs (b) and (c) of subsection (2) of this section.~~
- (4) ~~The state judge advocate may order one (1) or more boards of review each composed of not less than three (3) commissioned officers of the National Guard or active militia, each of whom must be a member of the bar of the highest court of the state. Each board of review shall review the record of any trial by special court martial referred to it by the state judge advocate. Boards of review have the same authority on review as the state judge advocate has under this section].~~

➔SECTION 71. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

Final decisions of a court-martial shall be deemed the statutory equivalent of a Circuit Court decision. The appellate procedures to be followed shall be those provided by law for the appeal of criminal cases.

➔SECTION 72. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

- (1) *The senior force judge advocate shall detail a judge advocate as appellate government counsel to represent the state in the review or appeal of cases specified in Section 71 of this Act and before any federal court when requested to do so by the state Attorney General. Appellate government counsel must be a member in good standing of the bar of the highest court of the state to which the appeal is taken.*
- (2) *Upon an appeal by the state, an accused has the right to be represented by detailed military counsel before any reviewing authority and before any appellate court.*
- (3) *Upon the appeal by an accused, the accused has the right to be represented by military counsel before any reviewing authority.*

- (4) *Upon the request of an accused entitled to be so represented, the senior force judge advocate shall appoint a judge advocate to represent the accused in the review or appeal of cases specified in subsections (2) and (3) of this section.*
- (5) *An accused may be represented by civilian appellate counsel at no expense to the state.*

➔SECTION 73. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

- (1) *If the sentence of the court-martial extends to dismissal or a dishonorable or bad-conduct discharge and if the right of the accused to appellate review is not waived, and an appeal is not withdrawn under Section 66 of this Act, that part of the sentence extending to dismissal or a dishonorable or bad-conduct discharge may not be executed until there is a final judgment as to the legality of the proceedings. A judgment as to the legality of the proceedings is final in such cases when review is completed by an appellate court prescribed in Section 71 of this Act, and is deemed final by the law of the state where the judgment was had.*
- (2) *If the sentence of the court-martial extends to dismissal or a dishonorable or bad-conduct discharge and if the right of the accused to appellate review is waived, or an appeal is withdrawn under Section 66 of this Act, that part of the sentence extending to dismissal or a dishonorable or bad-conduct discharge may not be executed until review of the case by the senior force judge advocate and any action on that review under Section 69 of this Act is completed. Any other part of the court-martial sentence may be ordered executed by the convening authority or other person acting on the case under Section 65 of this Act when so approved under that section.*

➔Section 74. KRS 35.340 is amended to read as follows:

- (1) *Before ~~Prior to~~ the vacation of the suspension of a *special* court-martial sentence, **which as approved includes a bad-conduct discharge, or of any general court-martial sentence**, the officer having *special* court-martial jurisdiction over the probationer shall hold a hearing on the alleged violation of probation. ~~If he so desires~~ The probationer shall be represented at ~~the~~ ~~such~~ hearing ~~either~~ by *military* counsel **if the probationer so desires** ~~provided by him or by counsel provided for him at his request in the same manner as specified in KRS 35.335~~.*
- (2) The record of the hearing and the *recommendation* ~~recommendations~~ of the officer having *special* court-martial jurisdiction shall be *sent* ~~forwarded~~ for action to the *officer exercising* ~~state judge advocate in cases involving a~~ *jurisdiction over the probationer* ~~sentence~~. If ~~the officer~~ ~~he~~ vacates the suspension, ~~the vacation shall be effective to execute~~ any unexecuted *part* ~~portion~~ of the sentence, **except a dismissal, shall be executed, subject to applicable restrictions in this code.**
- (3) The suspension of any other sentence may be vacated by any authority competent to convene, for the command in which the accused is serving or assigned, a court of the kind that imposed the sentence.

➔Section 75. KRS 35.345 is amended to read as follows:

At any time within *two (2) years* ~~one (1) year~~ after approval by the convening authority of a court-martial sentence ~~the~~ the accused may petition the *adjutant general* ~~Governor~~ for a new trial on grounds of newly discovered evidence or fraud in the court-martial. ~~The Governor shall act upon the petition.~~

➔Section 76. KRS 35.350 is amended to read as follows:

- (1) *Any authority competent to convene, for the command in which the accused is serving or assigned, a court of the kind that imposed the sentence* ~~The convening authority~~ may remit or suspend any part or amount of the unexecuted *part* ~~portion~~ of any sentence, including all uncollected forfeitures **other than a sentence approved by the Governor.**
- (2) The Governor may, for good cause, substitute an administrative form of discharge for a discharge or dismissal executed in accordance with the sentence of a court-martial.

➔Section 77. KRS 35.355 is amended to read as follows:

- (1) Under such regulations as may be prescribed ~~pursuant to this chapter~~, all rights, privileges, and property affected by an executed *part* ~~portion~~ of a court-martial sentence which has been set aside or disapproved, except an executed dismissal or discharge, shall be restored unless a new trial or rehearing is ordered and such executed *part* ~~portion~~ is included in a sentence imposed upon the new trial or rehearing.
- (2) ~~If~~ ~~Where~~ a previously executed sentence of dishonorable or *bad-conduct* ~~other punitive~~ discharge is not imposed on a new trial, the Governor ~~may~~ ~~shall~~ substitute therefor a form of discharge authorized for administrative issuance unless the accused is to serve out the remainder of *the accused's* ~~his~~ enlistment.

- (3) ~~If [Where]~~ a previously executed sentence of dismissal is not ~~imposed~~~~[sustained]~~ on a new trial, the **Governor may**~~[adjutant general shall]~~ substitute therefor a form of discharge authorized for administrative issuance, and the **commissioned** officer dismissed by ~~that~~~~[such]~~ sentence may be reappointed by the Governor ~~alone~~~~[, only,]~~ to such commissioned **grade and with such** rank~~[and precedence]~~ as in the opinion of the Governor ~~that~~~~[such]~~ former officer would have attained had he not been dismissed. The reappointment of such a former officer **shall be without regard to the existence of a**~~[may be made provided a position]~~ vacancy **and shall affect the promotion status of other officers only insofar as the Governor may direct**~~[is available under applicable tables of organization]~~. All time between the dismissal and ~~the~~~~[such]~~ reappointment shall be considered as **actual** service for all purposes, **including the right to pay and allowances**.

→ Section 78. KRS 35.360 is amended to read as follows:

The **appellate review of records of trial provided**~~[proceedings, findings and sentences of courts martial as reviewed and approved, as required]~~ by this code, **the proceedings, findings, and sentences of**~~[and all dismissals and discharges carried into execution pursuant to sentences by]~~ courts-martial **as approved, reviewed, or affirmed**~~[following review and approval,]~~ as required by this code, **and all dismissals and discharges carried into execution under sentences by courts-martial following the approval, review, or affirmation as required by this code, are**~~[shall be]~~ final **and conclusive**. Orders publishing the proceedings of courts-martial and all ~~action~~~~[actions]~~ taken pursuant to ~~those~~~~[such]~~ proceedings ~~are~~~~[shall be]~~ binding upon all departments, courts, agencies, and officers of the **United States and the several states**~~[state]~~, subject only to action upon a petition for a new trial as provided in KRS 35.345 **and to action under Section 76 of this Act**.

→ SECTION 79. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

Under regulations prescribed, an accused who has been sentenced by a court-martial may be required to take leave pending completion of action under this section if the sentence, as approved under Section 65 of this Act, includes an unsuspended dismissal or an unsuspended dishonorable or bad-conduct discharge. The accused may be required to begin that leave on the date on which the sentence is approved under Section 65 of this Act or at any time after that date, and the leave may be continued until the date on which action under this section is completed or may be terminated at an earlier time.

→ SECTION 80. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

The determination of lack of mental capacity or mental responsibility shall be determined pursuant to Kentucky state law as well as regulations of the Department of Defense of the United States and the laws of the United States governing the Armed Forces of the United States as required under the Kentucky Constitution.

→ Section 81. KRS 35.440 is amended to read as follows:

Any subject person **is a principal** who:

- (1) Commits an offense punishable by this code, or aids, abets, counsels, commands, or procures its commission;~~;~~ or
- (2) Causes an act to be done which if directly performed by **the person**~~[him]~~ would be punishable by this code~~[, is a principal offender]~~.

→ SECTION 82. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

Any person subject to this code who, knowing that an offense punishable by this code has been committed, receives, comforts, or assists the offender in order to hinder or prevent the person's apprehension, trial, or punishment shall be punished as a court-martial may direct.

→ Section 83. KRS 35.445 is amended to read as follows:

An accused may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or~~[or]~~ an offense necessarily included therein~~[, but not both]~~.

→ Section 84. KRS 35.450 is amended to read as follows:

- (1) An act, done with specific intent to commit an offense under this code, amounting to more than mere preparation and tending, **even though**~~[but]~~ failing, to effect its commission, is an attempt to commit that offense.
- (2) Any~~[subject]~~ person **subject to this code** who attempts to commit any offense punishable by this code shall be punished as a court-martial may direct, unless otherwise specifically prescribed.

- (3) Any ~~subject~~ person *subject to this code* may be convicted of an attempt to commit an offense although it appears on the trial that the offense was consummated.

➔Section 85. KRS 35.451 is amended to read as follows:

Any person subject to this code who conspires with any other person to commit an offense under this code shall, if one or more of the conspirators does an act to effect the object of the conspiracy, be punished as a court-martial *may direct* ~~directs~~.

➔Section 86. KRS 35.470 is amended to read as follows:

- (1) Any ~~subject~~ person *subject to this code* who solicits or advises another or others to desert in violation of *Section 89 of this Act* ~~[KRS 35.460 and this section]~~, or mutiny in violation of *Section 98 of this Act* ~~[KRS 35.465 and this section]~~, shall, *if the offense solicited or advised is attempted or committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed or attempted, the person shall* be punished as a court-martial may direct.
- (2) Any person subject to this code who solicits or advises another *or others* to commit an act of misbehavior before the enemy ~~[or any hostile force]~~ in violation of KRS 35.600 or sedition in violation of *Section 98 of this Act* ~~[KRS 35.465]~~ shall, *if the offense solicited or advised is committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed, the person shall* be punished as a court-martial *may direct* ~~directs~~.

➔Section 87. KRS 35.471 is amended to read as follows:

Any person shall be punished as a court-martial *may direct who* ~~directs when he~~:

- (1) Procures his *or her* own enlistment or appointment in the *state military forces* ~~[National Guard or active militia]~~ by knowingly false representation or deliberate concealment as to his *or her* qualifications for that enlistment or appointment and receives pay or allowances thereunder; or
- (2) Procures his *or her* own separation from the *state military forces* ~~[National Guard or active militia]~~ by knowingly false representation or deliberate concealment as to his *or her* eligibility for that separation.

➔Section 88. KRS 35.472 is amended to read as follows:

Any person subject to this code who effects an enlistment or appointment in or a separation from the *state military forces* ~~[National Guard or active militia]~~ of any person who is known to him *or her* to be ineligible for that enlistment, appointment, or separation because it is prohibited by law, regulation or order shall be punished as a court-martial *may direct* ~~directs~~.

➔Section 89. KRS 35.460 is repealed, reenacted as a new section of KRS Chapter 35, and amended to read as follows:

- (1) Any member of the *state military forces* ~~[National Guard or active militia who is found guilty of any of the following conduct]~~ is guilty of desertion *who*:
- (a) Without proper authority goes or remains absent from *the member's unit* ~~[his place of service]~~, organization, or place of duty with intent to remain away *from there* ~~[therefrom]~~ permanently;
- (b) Quits *the member's* ~~[his]~~ unit, ~~[or]~~ organization, or place of duty with intent to avoid hazardous duty or to shirk important service; or
- (c) Without being regularly separated from one (1) of the *state military forces* ~~[of the National Guard or active militia]~~ enlists or accepts an appointment in the same or another one (1) of the *state military forces, or in one of the Armed Forces of the United States,* ~~[of the National Guard or active militia]~~ without fully disclosing the fact *the member* ~~[he]~~ has not been ~~[so]~~ regularly separated, *or enters any foreign armed service except when authorized by the United States.*
- (2) Any *commissioned* officer of the *state military forces who, after tender of the officer's* ~~[National Guard or active militia, who having tendered his]~~ resignation and *before* ~~[prior to due]~~ notice of *its* ~~[the]~~ acceptance ~~[of the same]~~, quits his *or her* post or proper duties without leave and with intent to remain away therefrom permanently is guilty of desertion.
- (3) Any person found guilty of desertion or attempt to desert shall be punished, *if the offense is committed in time of war, by confinement of not more than ten (10) years or such other punishment as a court-martial may direct, but if the desertion or attempt to desert occurs at any other time, by such punishment* as a court-martial *may direct* ~~directs~~.

➔Section 90. KRS 35.461 is repealed, reenacted as a new section of KRS Chapter 35, and amended to read as follows:

Any person subject to this code shall be punished as a court-martial directs ~~who [when he]~~, without authority:

- (1) Fails to go to ~~the [his]~~ appointed place of duty at the time prescribed; ~~or~~
- (2) Goes from that place; or
- (3) Absents himself or *herself or* remains absent from ~~the [his]~~ unit, organization, or place of duty at which ~~the person [he]~~ is required to be at the time prescribed.

➔Section 91. KRS 35.462 is repealed, reenacted as a new section of KRS Chapter 35, and amended to read as follows:

Any person subject to this code who through neglect or design misses the movement of a ship, aircraft, or unit with which ~~the person [he]~~ is required in the course of duty to move shall be punished as a court-martial *may direct* ~~[directs]~~.

➔Section 92. KRS 35.476 is amended to read as follows:

Any person subject to this code who uses contemptuous words against the President or the Governor which may detrimentally affect the morale or effectiveness of any unit of the *state military forces* ~~[National Guard or active militia]~~ shall be punished as a court-martial *may direct* ~~[directs]~~.

➔SECTION 93. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

Any person subject to this code who behaves with disrespect toward the person's superior commissioned officer shall be punished as a court-martial may direct.

➔Section 94. KRS 35.481 is amended to read as follows:

Any person subject to this code ~~who [shall be punished as a court-martial directs when he]~~:

- (1) Strikes ~~the person's [his]~~ superior commissioned officer or draws or lifts up any weapon or offers any violence against ~~the superior commissioned officer [him]~~ while he *or she* is in the execution of his *or her* office; or
- (2) Willfully disobeys a lawful command of ~~the person's [his]~~ superior commissioned officer;

shall be punished, if the offense is committed in time of war, by confinement of not more than ten (10) years or such other punishment as a court-martial may direct, and if the offense is committed at any other time, by such punishment as a court-martial may direct.

➔Section 95. KRS 35.480 is repealed, reenacted as a new section of KRS Chapter 35, and amended to read as follows:

Any warrant officer or enlisted ~~member is [person who is found]~~ guilty of any of the following offenses *and* shall be punished as a court-martial may direct ~~who~~:

- (1) Strikes or assaults a warrant officer, ~~or~~ noncommissioned officer, *or petty officer*, while ~~that [such]~~ officer is in the execution of his *or her* office;
- (2) Willfully disobeys the lawful order of a warrant officer, ~~or~~ noncommissioned officer, *or petty officer*;
- (3) Treats with contempt or is disrespectful in language or deportment toward ~~a [an officer,]~~ warrant officer, ~~or~~ noncommissioned officer, *or petty officer* while ~~that [such]~~ officer is in the execution of his *or her* office.

➔Section 96. KRS 35.491 is amended to read as follows:

Any person subject to this code shall be punished as a court-martial *may direct who*: ~~[directs when he knowingly]~~

- (1) Violates or fails to obey any lawful *general* order or regulation;
- (2) *Having knowledge of any other lawful order issued by a member of the state military forces, which it is the person's duty to obey, fails to obey the order; or*
- (3) *Is derelict in the performance of the person's duties* ~~[, including an order to report for state active duty].~~

➔Section 97. KRS 35.575 is amended to read as follows:

Any person subject to this code who is guilty of cruelty toward, or oppression or maltreatment of, any person subject to ~~the person's [his]~~ orders ~~[,]~~ shall be punished as a court-martial *may direct* ~~[directs]~~.

➔Section 98. KRS 35.465 is repealed, reenacted as a new section of KRS Chapter 35, and amended to read as follows:

- (1) Any person subject to this code shall be punished as a court-martial **may direct who**~~{directs when he}~~:
- (a)~~{(1)}~~ With intent to usurp or override lawful military authority, refuses, in concert with any other person~~{or persons}~~, to obey orders or otherwise do his **or her** duty or creates any violence or disturbance is guilty of mutiny.
- (b)~~{(2)}~~ With intent to cause the overthrow or destruction of lawful civil authority, creates, in concert with any other person~~{or persons}~~, revolt, violence, or other disturbance against **that**~~{such}~~ authority is guilty of sedition.
- (c)~~{(3)}~~ Fails to do his **or her** utmost to prevent and suppress a~~{an offense of}~~ mutiny or sedition being committed in his **or her** presence, or fails to take all reasonable means to inform his **or her** superior **commissioned officer** or commanding officer of an offense of mutiny or sedition which he **or she** knows or has reason to believe is taking place, is guilty of a failure to suppress or report a mutiny or sedition.
- (2) **A person who is found guilty of attempted mutiny, mutiny, sedition, or failure to suppress or report a mutiny or sedition shall be punished as a court-martial may direct.**

➔Section 99. KRS 35.580 is amended to read as follows:

Any person subject to this code **shall be punished as a court-martial may direct** who:

- (1) Resists apprehension;
- (2) **Flees from apprehension;**~~{or}~~
- (3) Breaks arrest; or
- (4) ~~{Who}~~Escapes from **custody or confinement**~~{physical restraint lawfully imposed shall be punished as a court-martial directs}~~.

➔Section 100. KRS 35.585 is amended to read as follows:

Any person subject to this code who, without proper authority, releases any prisoner committed to his **or her** charge, or who through neglect or design suffers any such prisoner to escape, shall be punished as a court-martial **may direct**~~{directs}~~, whether or not the prisoner was committed in strict compliance with law.

➔Section 101. KRS 35.590 is amended to read as follows:

Any person subject to this code who, except as provided by law or regulation, apprehends, arrests, or confines any person shall be punished as a court-martial **may direct**~~{directs}~~.

➔Section 102. KRS 35.595 is amended to read as follows:

Any person subject to this code shall be punished as a court-martial **may direct who**~~{directs when he}~~:

- (1) Is responsible for unnecessary delay in the disposition of any case of a person accused of an offense under this code; or
- (2) Knowingly and intentionally fails to enforce or comply with any provision of this code regulating the proceedings before, during, or after trial of an accused.

➔Section 103. KRS 35.600 is amended to read as follows:

Any person subject to this code shall be punished as a court-martial **may direct who**~~{directs when he}~~, before or in the presence of the enemy or any hostile force:

- (1) Runs away;~~{or}~~
- (2) Shamefully abandons, surrenders, or delivers up any command, unit, place, or military property which it is his **or her** duty to defend;~~{or}~~
- (3) Through disobedience, neglect, or intentional misconduct endangers the safety of any such command, unit, place, or military property;~~{or}~~
- (4) Casts away his **or her** arms or ammunition;~~{or}~~
- (5) Is guilty of cowardly conduct;~~{or}~~

- (6) Quits his *or her* place of duty to plunder or pillage;~~{or}~~
- (7) Causes false alarms in any command, unit, or place under control of the Armed Forces of the United States or the *state military forces*;~~{National Guard or active militia; or}~~
- (8) Willfully fails to do his *or her* utmost to encounter, engage, capture, or destroy any enemy troops,~~{hostile forces,}~~ combatants, vessels, aircraft, or any other thing, which it is his *or her* duty so to encounter, engage, capture, or destroy; or
- (9) Does not afford all practicable relief and assistance to any troops, combatants, vessels, or aircraft of the Armed Forces belonging to the United States or their allies, to the state, or to any other state, when engaged in battle.

➔Section 104. KRS 35.605 is amended to read as follows:

Any person subject to this code who compels or attempts to compel the commander of~~{any of}~~ the *state military forces*~~{National Guard or active militia}~~ of the state, *place, vessel, aircraft, or other military property, or of any body of members of the Armed Forces*, to give it up to an enemy~~{or any hostile force}~~ or to abandon it, or who strikes the colors or flag to an enemy~~{or any hostile force}~~ without proper authority, shall be punished as a court-martial *may direct*~~{direct}~~.

➔SECTION 105. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

Any person subject to this code who in time of war discloses the parole or countersign to any person not entitled to receive it or who gives to another, who is entitled to receive and use the parole or countersign, a different parole or countersign from that which, to his knowledge, he was authorized and required to give, shall be punished as a court-martial may direct.

➔SECTION 106. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

Any person subject to this code who forces a safeguard shall be punished as a court-martial may direct.

➔Section 107. KRS 35.620 is amended to read as follows:

- (1) All persons subject to this code shall secure all property taken *for the service of the United States or the state*,~~{from the enemy or any hostile force}~~ and shall give notice and turn over to the proper authority without delay all captured or abandoned property in their possession, custody, or control.
- (2) Any person subject to this code shall be punished as a court-martial *may direct who*~~{directs when he}~~:
 - (a) Fails to carry out the duties prescribed in subsection (1) of this section; or
 - (b) Buys, sells, trades, or in any way deals in or disposes of *taken*, captured or abandoned property whereby he *or she* receives or expects any profit, benefit, or advantage to himself *or herself* or another *person* directly or indirectly connected~~{with himself}~~; or
 - (c) Engages in looting or pillaging.

➔Section 108. KRS 35.625 is amended to read as follows:

Any person subject to this code shall be punished as a court-martial *may direct who*~~{directs when he}~~:

- (1) Aids, or attempts to aid, the enemy~~{or any hostile force}~~ with arms, ammunition, supplies, money, or other things; or
- (2) Without proper authority, knowingly harbors or protects or gives intelligence to, or communicates or corresponds with or holds any intercourse with the enemy~~{or any hostile force}~~, either directly or indirectly.

➔Section 109. KRS 35.630 is amended to read as follows:

Any person subject to this code shall be punished as a court-martial *may direct who*~~{directs when he}~~, while in the hands of the enemy *in time of war*~~{or any hostile force}~~:

- (1) For the purpose of securing favorable treatment by his *or her* captors, acts without proper authority in a manner contrary to law, custom, or regulation, to the detriment of others *of whatever nationality* held by the enemy~~{or any hostile force}~~ as civilian or military prisoners; or
- (2) While in a position of authority over *such persons*~~{prisoners}~~ maltreats them without justifiable cause.

➔Section 110. KRS 35.635 is amended to read as follows:

Any person subject to this code who, with intent to deceive, signs any false record, return, regulation, order, or other official document *made in the line of duty*, knowing it to be false, or makes any other false official statement *made in the line of duty*, knowing it to be false, shall be punished as a court-martial *may direct*~~[directs]~~.

➔SECTION 111. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

Any person subject to this code shall be punished as a court-martial may direct, if that person, without proper authority:

- (1) *Sells or otherwise disposes of;*
 - (2) *Willfully or through neglect damages, destroy, or loses; or*
 - (3) *Willfully or through neglect suffers to be lost, damaged, destroyed, sold, or wrongfully disposed of;*
- any military property of the United States or of any state.*

➔Section 112. KRS 35.640 is amended to read as follows:

Any person subject to this code who ~~[while in a duty status]~~ willfully or recklessly wastes, spoils, or otherwise willfully and wrongfully destroys or damages any property other than military property of the United States or of ~~any~~~~the~~ state shall be punished as a court-martial *may direct*~~[directs]~~.

➔SECTION 113. A NEW SECTION OF KRS CHAPTER 110 IS CREATED TO READ AS FOLLOWS:

- (1) *Any person subject to this code who willfully and wrongfully hazards or suffers to be hazarded any vessel of the Armed Forces of the United States or any state military forces shall suffer such punishment as a court-martial may direct.*
- (2) *Any person subject to this code who negligently hazards or suffers to be hazarded any vessel of the Armed Forces of the United States or any state military forces shall be punished as a court-martial may direct.*

➔Section 114. KRS 35.645 is amended to read as follows:

Any person subject to this code who operates *or is in physical control of* any vehicle while *under the influence of alcohol or any other substances or combination of substances which impair one's driving ability*~~[drunk]~~, or in a reckless or wanton manner, shall be punished as a court-martial *may direct*~~[directs]~~.

➔Section 115. KRS 35.650 is amended to read as follows:

Any person subject to this code *other than a sentinel or lookout*, who is found drunk on duty~~[or sleeping upon his post, or who leaves his post before he is regularly relieved]~~, shall be punished as a court-martial *may direct*~~[directs]~~.

➔SECTION 116. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

- (1) *Any person subject to this code who wrongfully uses, possesses, manufactures, distributes, or imports into the customs territory of the United States, exports from the United States, or introduces into an installation, vessel, vehicle, or aircraft used by or under the control of the Armed Forces of the United States, state military forces, or the state military forces of any other state a substance described in subsection (2) of this section shall be punished as a court-martial may direct.*
- (2) *The substances referred to in subsection (1) of this section are the following:*
 - (a) *Opium, heroin, cocaine, amphetamine, lysergic acid diethylamide, methamphetamine, phencyclidine, barbituric acid, and marijuana and any compound or derivative of any of these substances.*
 - (b) *Any substance not specified in paragraph (a) of this subsection that is listed on a schedule of controlled substances prescribed by the President for the purposes of the Uniform Code of Military Justice of the Armed Forces of the United States, 10 U.S.C. secs. 801 et seq.*
 - (c) *Any other substance not specified in paragraph (a) of this subsection or contained on a list prescribed by the President under paragraph (b) of this subsection that is listed in schedules I through V of Article 202 of the Controlled Substances Act, 21 U.S.C. sec. 812.*

➔SECTION 117. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

Any sentinel or lookout who is found drunk or sleeping upon his or her post or leaves it before being regularly relieved, shall be punished, if the offense is committed in a time of war, by confinement of not more than ten (10) years or other punishment as a court-martial may direct, but if the offense is committed at any other time, by such punishment as a court-martial may direct.

➔SECTION 118. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

Any person subject to this code who fights or promotes, or is concerned in or connives at fighting a duel, or who, having knowledge of a challenge sent or about to be sent, fails to report the fact promptly to the proper authority, shall be punished as a court-martial may direct.

➔Section 119. KRS 35.660 is amended to read as follows:

Any person subject to this code shall be punished as a court-martial *may direct who* ~~[directs when he]~~, for the purpose of avoiding work, duty or service ~~[in the National Guard or active militia]:~~

- (1) Feigns illness, physical disablement, mental lapse, or derangement; or
- (2) Intentionally inflicts self-injury.

➔Section 120. KRS 35.665 is amended to read as follows:

Any person subject to this code who causes or participates in any riot or breach of the peace shall be punished as a court-martial *may direct* ~~[directs]~~.

➔SECTION 121. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

Any person subject to this code who uses provoking or reproachful words or gestures towards another person subject to this code shall be punished as a court-martial may direct.

➔SECTION 122. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

- (1) *Any person subject to this code is guilty of rape and shall be punished as a court-martial may direct who commits a sexual act upon another person by:*
 - (a) *Using unlawful force against another person;*
 - (b) *Using force causing or likely to cause death or grievous bodily harm to any person;*
 - (c) *Threatening or placing that other person in fear that any person will be subject to death, grievous bodily harm, or kidnapping;*
 - (d) *First rendering that other person unconscious; or*
 - (e) *Administering to that other person by force or threat, or without the knowledge or consent of that person, a drug, intoxicant, or other similar substance and thereby substantially impairing the ability of that other person to appraise or control conduct.*
- (2) *Any person subject to this code is guilty of sexual assault and shall be punished as a court-martial may direct who:*
 - (a) *Commits a sexual act upon another person by:*
 1. *Threatening or placing that other person in fear;*
 2. *Causing bodily harm to that other person;*
 3. *Making a fraudulent representation that the sexual act serves a professional purpose; or*
 4. *Inducing a belief by an artifice, pretense, or concealment that the person is another person;*
 - (b) *Commits a sexual act upon another person when the person knows or reasonably should know that the other person is asleep, unconscious, or otherwise unaware that the sexual act is occurring; or*
 - (c) *Commits a sexual act upon another person when the other person is incapable of consenting to the sexual act due to:*
 1. *Impairment by any drug, intoxicant, or other similar substance, and that condition is known or reasonably should be known by the person; or*
 2. *A mental disease or defect, or physical disability, and that condition is known or reasonably should be known by the person.*
- (3) *Any person subject to this code who commits or causes sexual contact upon or by another person, if to do so would violate subsection (1) of this section had the sexual contact been a sexual act, is guilty of aggravated sexual contact and shall be punished as a court-martial may direct.*

- (4) *Any person subject to this chapter who commits or causes sexual contact upon or by another person, if to do so would violate subsection (2) of this section had the sexual contact been a sexual act, is guilty of abusive sexual contact and shall be punished as a court-martial may direct.*
- (5) *In a prosecution under this section, in proving that a person made a threat, it need not be proven that the person actually intended to carry out the threat or had the ability to carry out the threat.*
- (6) *An accused may raise any applicable defenses available under this code or the Rules for Court-Martial. Marriage is not a defense for the conduct in issue in any prosecution under this section.*
- (7) *In this section:*
- (a) *"Sexual act" means:*
- 1. Contact between the penis and the vulva or anus or mouth, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight; or*
 - 2. The penetration, however slight, of the vulva or anus or mouth of another by any part of the body or by any object, with an intent to abuse, humiliate, harass, or degrade any person or to arouse or gratify the sexual desire of any person.*
- (b) *"Sexual contact" means:*
- 1. Touching, or causing another person to touch, either directly or through the clothing, the genitalia, anus, groin, breast, inner thigh, or buttocks of any person, with an intent to abuse, humiliate, or degrade any person; or*
 - 2. Any touching, or causing another person to touch, either directly or through the clothing, any body parts of another person, if done with an intent to arouse or gratify the sexual desire of any person. Touching may be accomplished by any part of the body.*
- (c) *"Bodily harm" means any offensive touching of another, however slight, including any nonconsensual sexual act or nonconsensual sexual contact.*
- (d) *"Grievous bodily harm" means serious bodily injury. It includes fractures or dislocated bones, deep cuts, torn members of the body, serious damage to internal organs, and other severe bodily injuries. It does not include minor injuries such as a black eye or a bloody nose.*
- (e) *"Force" means:*
- 1. The use of a weapon;*
 - 2. The use of such physical strength or violence as is sufficient to overcome, restrain, or injure a person; or*
 - 3. Inflicting physical harm sufficient to coerce or compel submission by the victim.*
- (f) *"Unlawful force" means an act of force done without legal justification or excuse.*
- (g) *"Threatening or placing that other person in fear" means a communication or action that is of sufficient consequences to cause a reasonable fear that non-compliance will result in the victim or another person being subjected to the wrongful action contemplated by the communication or action.*
- (h) *"Consent":*
- 1. The term "consent" means a freely given agreement to the conduct at issue by a competent person. An expression of lack of consent through words or conduct means there is no consent. Lack of verbal or physical resistance or submission resulting from the use of force, threat of force, or placing another person in fear does not constitute consent. A current or previous dating or social or sexual relationship by itself or the manner of dress of the person involved with the accused in the conduct at issue shall not constitute consent.*
 - 2. A sleeping, unconscious, or incompetent person cannot consent. A person cannot consent to force causing or likely causing death or grievous bodily harm or to being rendered unconscious. A person cannot consent while under threat or fear or under the circumstances described in subsection (2)(a)3. and 4. of this section.*
 - 3. Lack of consent may be inferred based on the circumstances of the offense. All the surrounding circumstances are to be considered in determining whether a person gave*

consent, or whether a person did not resist or ceased to resist only because of another person's actions.

➔SECTION 123. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

- (1) *Any person subject to this code is guilty of stalking and shall be punished as a court-martial may direct who:*
- (a) *Wrongfully engages in a course of conduct directed at a specific person that would cause a reasonable person to fear death or bodily harm, including sexual assault, to himself or herself or a member of his or her immediate family;*
 - (b) *Has knowledge, or should have knowledge, that the specific person will be placed in reasonable fear of death or bodily harm, including sexual assault, to himself or herself or a member of his or her immediate family; and*
 - (c) *Induces reasonable fear in the specific person or bodily harm, including sexual assault, to himself or herself or to a member of his or her immediate family, through the person's actions.*
- (2) *In this section:*
- (a) *"Course of conduct" means:*
 - 1. *A repeated maintenance of visual or physical proximity to a specific person; or*
 - 2. *A repeated conveyance of verbal threat, written threats, or threats implied by conduct, or a combination of these threats, directed at or towards a specific person.*
 - (b) *"Repeated," with respect to conduct, means two (2) or more occasions of that conduct.*
 - (c) *"Immediate family," in the case of a specific person, means a spouse, parent, child, or sibling of the person, or any other family member, relative, or intimate partner of the person who regularly resides in the household of the person or who within the six (6) months preceding the commencement of the course of conduct regularly resided in the household of the person.*

➔SECTION 124. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

- (1) *Any person subject to this code is guilty on an offense under this section and shall be punished as a court-martial may direct who, without legal justification or lawful authorization:*
- (a) *Knowingly or wrongfully views the private area of another person, without that other person's consent and under circumstances in which that other person has a reasonable expectation of privacy;*
 - (b) *Knowingly photographs, videotapes, films, or records by any means the private area of another person, without that other person's consent or under circumstances in which that other person has a reasonable expectation of privacy; or*
 - (c) *Knowingly broadcasts or distributes any recording that the person knew or reasonably should have known was made under the circumstances proscribed in paragraphs (a) and (b) of this subsection.*
- (2) *Any person subject to this code who compels another person to engage in the act of prostitution with any person is guilty of forcible pandering and shall be punished as a court-martial may direct.*
- (3) *Any person subject to this code who intentionally exposes, in an indecent manner, the genitalia, anus, buttocks, or female areola or nipple is guilty of indecent exposure and shall be punished as a court-martial may direct.*
- (4) *In this section:*
- (a) *"Act of prostitution" means a sexual act or sexual contact as defined in subsection (7) of Section 122 of this Act on account of which anything of value is given to, or received by, any person.*
 - (b) *"Private area" means the naked or underwear-clad genitalia, anus, buttocks, or female areola or nipple.*
 - (c) *"Under circumstances in which that other person has a reasonable expectation of privacy" means:*

1. *Circumstances in which a reasonable person would believe that he or she could disrobe in privacy, without being concerned that an image of a private area of that person was being captured; or*
 2. *Circumstances in which a reasonable person would believe that a private area of that person would not be visible to the public.*
- (d) *"Broadcast" means delivering to the actual or constructive possession of another, including transmission by electronic means.*
- (e) *"Indecent manner" means conduct that amounts to a form of immorality relating to sexual impurity which is grossly vulgar, obscene, and repugnant to common propriety, and tends to excite sexual desire or deprave morals with respect to sexual relations.*

➔Section 125. KRS 35.670 is repealed, reenacted as a new section of KRS Chapter 35, and amended to read as follows:

- (1) Any person subject to this code who wrongfully takes, obtains, or withholds, by any means, from the possession of the owner or of any other person any money, personal property, or articles of value of any kind:
 - (a) With intent permanently to deprive or defraud another person of the use and benefit of property or to appropriate it to his *or her* own use or the use of any person other than the owner, steals that property and is guilty of larceny; or
 - (b) With intent temporarily to deprive or defraud another person of the use and benefit of property or to appropriate it to his *or her* own use or the use of any person other than the owner, is guilty of wrongful appropriation.
- (2) Any person found guilty of larceny or wrongful appropriation shall be punished as a court-martial *may direct*~~[directs]~~.

➔SECTION 126. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

Any person subject to this code who with intent to steal takes anything of value from the person or in the presence of another, against his or her will, by means of force of violence or fear of immediate or future injury to his or her person or property or to the person or property of a relative or member of his or her family or of anyone in his or her company at the time of the robbery, is guilty of robbery and shall be punished as a court-martial may direct.

➔SECTION 127. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

Any person subject to this code is guilty of forgery and shall be punished as a court-martial may direct who, with intent to defraud:

- (1) *Falsely makes or alters any signature to, or any part of, any writing which would, if genuine, apparently impose a legal liability on another or change his or her legal right or liability to his or her prejudice; or*
- (2) *Utters, offers, issues, or transfers such a writing, known to him or her to be so made or altered.*

➔SECTION 128. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

- (1) *Any person subject to this code is guilty of making, drawing, or uttering a check, draft, or order without sufficient funds and shall be punished as a court-martial may direct who:*

- (a) *For the procurement of any article or thing of value, with the intent to defraud; or*
- (b) *For the payment of any past due obligation, or for any other purpose, with intent to deceive;*

makes, draws, utters, or delivers any check, draft, or order for the payment of money upon any bank or other depository, knowing at the time that the maker or drawer has not or will not have sufficient funds in, or credit with, the bank or other depository for the payment of that check, draft, or order in full upon its presentment.

- (2) *The making, drawing, uttering, or delivering by a maker or drawer of a check, draft, or order, payment of which is refused by the drawee because of insufficient funds of the maker or drawer in the drawee's possession or control, is prima facie evidence of his or her intent to defraud or deceive and of his or her knowledge of insufficient funds in, or credit with, that bank or other depository, unless the maker or drawer pays the holder the amount due within five (5) days after receiving notice, orally or in writing, that the check, draft, or order was not paid on presentment.*

- (3) *In this section, "credit" means an arrangement or understanding, express or implied, with the bank or other depository for the payment of that check, draft, or order.*

➔SECTION 129. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

Any person subject to this code is guilty of maiming and shall be punished as a court-martial may direct who, with intent to injure, disfigure, or disable, inflicts upon the person of another an injury which:

- (1) *Seriously disfigures his or her person by any mutilation thereof;*
- (2) *Destroys or disables any member or organ of his or her body; or*
- (3) *Seriously diminishes his or her physical vigor by the injury of any member or organ.*

➔SECTION 130. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

- (1) *Any person subject to this code who willfully and maliciously burns or sets on fire an inhabited dwelling, or any other structure, movable or immovable, wherein to the knowledge of the offender there is at the time a human being, is guilty of aggravated arson and shall be punished as a court-martial may direct.*
- (2) *Any person subject to this chapter who willfully and maliciously burns or sets fire to the property of another, except as provided in subsection (1) of this section, is guilty of simple arson and shall be punished as a court-martial may direct.*

➔SECTION 131. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

Any person subject to this code who communicates threats to another person with the intention thereby to obtain anything of value or any acquittance, advantage, or immunity is guilty of extortion and shall be punished as a court-martial may direct.

➔SECTION 132. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

- (1) *Any person subject to this code who attempts or offers with unlawful force or violence to do bodily harm to another person, whether or not the attempt or offer is consummated, is guilty of assault and shall be punished as a court-martial may direct.*
- (2) *Any person subject to this chapter is guilty of aggravated assault and shall be punished as a court-martial may direct who:*
 - (a) *Commits an assault with a dangerous weapon or other means or force likely to produce death or grievous bodily harm; or*
 - (b) *Commits an assault and intentionally inflicts grievous bodily harm with or without a weapon.*

➔SECTION 133. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

Any person subject to the code who, with intent to commit an offense punishable under Sections 122 to 132 of this Act, breaks and enters, in the nighttime, the dwelling house of another, is guilty of burglary and shall be punished as a court-martial may direct.

➔SECTION 134. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

Any person subject to this code who unlawfully enters the building or structure of another with intent to commit a criminal offense therein is guilty of housebreaking and shall be punished as a court-martial may direct.

➔Section 135. KRS 35.455 is repealed, reenacted as a new section of KRS Chapter 35, and amended to read as follows:

Any subject person *subject to this code is guilty of perjury and shall be punished as a court-martial may direct* who, in a judicial proceeding or course of justice, willfully and corruptly:

- (1) ~~[gives,]~~Upon a lawful oath or in any form allowed by law to be substituted for an oath, *gives* any false testimony material to the issue or matter of inquiry; *or*
- (2) *In any declaration, certificate, verification, or statement under penalty of perjury as permitted under 28 U.S.C. sec. 1746, subscribes any false statement material to the issue or matter of inquiry*~~[is guilty of perjury and shall be punished as a court-martial directs].~~

➔SECTION 136. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

Any person subject to this code who:

- (1) **Knowing it to be false or fraudulent:**
 - (a) **Makes any claim against the United States, the state, or any officer thereof; or**
 - (b) **Presents to any person in the civil or military service thereof, for approval or payment, any claim against the United States, the state, or any officer thereof;**
- (2) **For the purposes of obtaining the approval, allowance, or payment of any claim against the United States, the state, or any officer thereof:**
 - (a) **Makes or uses any writing or other paper knowing it to contain any false or fraudulent statements;**
 - (b) **Makes any oath, affirmation, or certification to any fact or to any writing or other paper knowing the oath, affirmation, or certification to be false; or**
 - (c) **Forges or counterfeits any signature upon any writing or other paper, or uses any such signature knowing it to be forged or counterfeited;**
- (3) **Having charge, possession, custody, or control of any money, or other property of the United States or the state, furnished or intended for the Armed Forces of the United States or the state military forces, knowingly delivers to any person having authority to receive it, any amount thereof less than that for which he or she receives a certificate or receipt; or**
- (4) **Being authorized to make or deliver any paper certifying the receipt of any property of the United States or the state, furnished or intended for the Armed Forces of the United States or the state military forces, makes or delivers to any person such writing without having full knowledge of the truth of the statements therein contained and with intent to defraud the United States or the state;**

shall, upon conviction, be punished as a court-martial may direct.

→Section 137. KRS 35.475 is repealed, reenacted as a new section of KRS Chapter 35, and amended to read as follows:

Any commissioned officer, **cadet, candidate, or midshipman**~~[or warrant officer]~~ who is convicted of conduct unbecoming an officer and a gentleman shall be punished as a court-martial may direct.

→Section 138. KRS 35.680 is repealed, reenacted as a new section of KRS Chapter 35, and amended to read as follows:

Though not specifically mentioned in this code, all disorders and neglects to the prejudice of good order and discipline in the **state military forces**~~[National Guard or active militia]~~ and all conduct of a nature to bring discredit upon the **state military forces**~~[National Guard or active militia, of which persons subject to this code may be guilty,]~~ shall be taken cognizance of by a ~~[general, special, or summary]~~ court-martial~~[- according to the nature and degree of the offense,]~~ and~~[- shall be]~~ punished at the discretion of **a military**~~[that]~~ court. However, **where a crime constitutes an offense that violates both this code and the criminal laws of the state where the offense occurs or criminal laws of the United States, jurisdiction of the military court must be determined in accordance with subsection (2) of Section 7 of this Act**~~[cognizance may not be taken of and jurisdiction may not be extended to any offense which constitutes a felony under the laws of this state without a prior written waiver by the Commonwealth's attorney of the county where the alleged offense occurred].~~

→Section 139. KRS 35.375 is repealed, reenacted as a new section of KRS Chapter 35, and amended to read as follows:

- (1) Courts of inquiry to investigate any matter **of concern to the state military forces** may be convened by **any person authorized to convene a general court-martial, whether or not the persons involved have requested an inquiry**~~[the Governor]~~.
- (2) A court of inquiry **consists**~~[shall consist]~~ of three (3) or more **commissioned** officers. For each court of inquiry the convening authority shall also appoint counsel for the court.
- (3) Any~~[- subject]~~ person **subject to this code** whose conduct is subject to inquiry shall be designated as a party. Any~~[- subject]~~ person **subject to this code**~~[- or person employed in the military department of the Commonwealth of Kentucky]~~ who has a direct interest in the subject of inquiry **has**~~[shall have]~~ the right to be designated as a party upon request to the court. Any person designated as a party shall be given due notice and shall have the right to be present, to be represented by counsel, to cross-examine witnesses, and to introduce evidence.
- (4) Members of a court of inquiry may be challenged by a party, but only for cause stated to the court.

- (5) The members, counsel, the reporter, and interpreters of courts of inquiry shall take an oath or affirmation to faithfully perform their duties.
- (6) Witnesses may be summoned to appear and testify and be examined before courts of inquiry, ~~in like manner~~ as provided for ~~in~~ courts-martial.
- (7) Courts of inquiry shall make findings of fact but shall not express opinions or make recommendations unless required to do so by the convening authority.
- (8) Each court of inquiry shall keep a record of its proceedings, which shall be authenticated by the signatures of the president and counsel for the court and forwarded to the convening authority. ~~If in case~~ the record cannot be authenticated by the president it shall be signed by a member in lieu of the president. ~~If and in case~~ the record cannot be authenticated by the counsel for the court it shall be signed by a member in lieu of the counsel.

➔Section 140. KRS 35.380 is repealed, reenacted as a new section of KRS Chapter 35, and amended to read as follows:

- (1) The following *persons may* ~~officers of the National Guard and active militia shall have power to~~ administer oaths for the purposes of military administration, including military justice ~~and affidavits may be taken for such purposes before such officers~~:
 - (a) All judge advocates ~~of the National Guard and active militia~~;
 - (b) ~~All summary courts martial~~;
 - (c) ~~All adjutants, assistant adjutants, acting adjutants, and personnel adjutants~~;
 - (d) ~~All commanding officers of the naval militia~~ ~~staff judge advocates and acting or assistant staff judge advocates~~; and
 - (e) All other persons designated by regulations *of the Armed Forces of the United States or by statute* ~~issued pursuant to this chapter~~.
- (2) The following *persons may* ~~officers of the National Guard or active militia shall have power to~~ administer oaths necessary in the performance of their duties ~~and affidavits may be taken for such purposes before such officers~~:
 - (a) The president, military judge, *and* trial counsel ~~and assistant trial counsel~~ for all general and special courts-martial;
 - (b) The president and the counsel for the court of any court of inquiry;
 - (c) All officers designated to take a deposition;
 - (d) All persons detailed to conduct an investigation;
 - (e) All other persons designated by regulations *of the Armed Forces of the United States or by statute* ~~issued pursuant to this chapter~~.
- (3) The signature without seal of any *such* person ~~enumerated in subsections (1) and (2) of this section~~, together with the title of his *or her* office, shall be prima facie evidence of *the person's* ~~his~~ authority.

➔Section 141. KRS 35.385 is repealed, reenacted as a new section of KRS Chapter 35, and amended to read as follows:

- (1) (a) *The sections of this code specified in paragraph (c) of this subsection* ~~KRS 35.015, 35.020, 35.035 to 35.070, 35.120, 35.130, 35.155, 35.185, 35.190, 35.275, 35.385, 35.390, 35.395, 35.440 to 35.680~~ shall be carefully explained to *each enlisted member* ~~every enlisted person~~ at the time of, *or within thirty (30) days after the member's initial entrance into a duty status with the state military forces*.
- (b) *The sections* ~~his enlistment or induction into or when ordered to duty in or with any of the forces of the National Guard or active militia or within six (6) days thereafter. They~~ shall be explained again:
 1. After *the member has completed basic or recruit training*; ~~he has completed six (6) months service,~~ and
 2. Again at the time *when the member* ~~he~~ reenlists.

(c) *This subsection applies with respect to Sections 7, 8, 12 to 19, 26, 28, 32, 38, 39, 57, 81 to 138, and 141 to 143 of this Act.*

(2) ~~The [A complete] text of this code and of the regulations prescribed under such code shall [by the Governor thereunder shall, upon request,] be made available to any member of the *state military forces, upon request by the member, for the member's* [National Guard or active militia for his] personal examination.~~

➔Section 142. KRS 35.390 is repealed, reenacted as a new section of KRS Chapter 35, and amended to read as follows:

Any member of the *state military forces* ~~[National Guard or active militia]~~ who believes himself *or herself* wronged by his *or her* commanding officer, and, upon *due* application to ~~that [such]~~ commander, is refused redress, may complain to any superior *commissioned* officer who shall forward the complaint to the *officer exercising general court-martial jurisdiction over the officer against whom it is made. The officer exercising general court-martial jurisdiction shall examine into the complaint and take proper measures for redressing the wrong complained of, and shall, as soon as possible, send to* ~~[Governor through]~~ the adjutant general *a true statement of that complaint, with the proceedings thereon* ~~[-; the Governor, after investigation, shall take such measures as he deems proper].~~

➔Section 143. KRS 35.395 is repealed, reenacted as a new section of KRS Chapter 35, and amended to read as follows:

(1) Whenever complaint is made to any commanding officer that willful damage has been done to the property of any person or that *the person's* ~~[his]~~ property has been wrongfully taken by members of the *state military forces, that person may, under* ~~[National Guard or active militia he may, subject to]~~ such regulations ~~[as may be] prescribed [pursuant to this chapter], convene a board to investigate the complaint. The board shall consist of from one (1) to three (3) *commissioned* officers and [shall have], for the purpose of *that [such]* investigation, *it has* power to summon witnesses and examine them upon oath ~~[or affirmation]~~, to receive depositions or other documentary evidence, and to assess the damages sustained against the responsible parties. The assessment of damages made by *the [such]* board *is* ~~[shall be]~~ subject to the approval of the commanding officer, and ~~[,]~~ in the amount approved by *that officer* ~~[him,]~~ shall be charged against the pay of the offenders. The order of such commanding officer directing charges herein authorized *is* ~~[shall be]~~ conclusive on any disbursing officer for the payment ~~[by him]~~ to the injured parties of the damages so assessed and approved.~~

(2) ~~If [Where]~~ the offenders cannot be ascertained, but the organization or detachment to which they belong is known, *charges totaling* ~~[the adjutant general may direct that]~~ the amount of damages assessed and approved *may be made in such proportion as may be considered just upon the individual members thereof who are shown to have been present at the scene at the time the damages complained of were inflicted, as determined by the approved findings of the board* ~~[be paid to the injured parties from the military fund of the unit of the National Guard or active militia to which such offenders belonged].~~

➔Section 144. KRS 35.425 is repealed, reenacted as a new section of KRS Chapter 35, and amended to read as follows:

The Governor *may* ~~[is authorized to]~~ delegate any authority vested in *the Governor* ~~[him]~~ under this code, and ~~[to]~~ provide for the subdelegation of any such authority, *except the power given the Governor by Section 24 of this Act.*

➔SECTION 145. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

(1) *The fees and authorized travel expenses of all witnesses, experts, victims, court reporters, and interpreters, fees for the service of process, the costs of collection, apprehension, detention and confinement, and all other necessary expenses of prosecution and the administration of military justice, not otherwise payable by any other source, shall be paid out of the military justice fund.*

(2) *For the foregoing purposes, there is created in the State Treasury a fund to be designated the military justice fund that shall be administered by the adjutant general, from which expenses of military justice shall be paid in the amounts and manner as prescribed by law. The legislature may appropriate and have deposited in the military justice fund such funds as it deems necessary to carry out the purposes of this code.*

➔Section 146. KRS 35.410 is repealed, reenacted as a new section of KRS Chapter 35, and amended to read as follows:

- (1) Fines ~~imposed by [may be paid to]~~ a military court or *through imposition of non-judicial punishment may be paid to the state and delivered to the court or imposing officer, or to a person executing their process. Fines may be collected by:*
- (a) *Cash or money order;*
 - (b) *Retention of any pay or allowances due or to become due the person from any state or the United States; or*
 - (c) *Garnishment or levy, together with costs, on wages, goods, and chattels of a person delinquent in paying a fine, as provided by law.*
- (2) ~~Any sum so received or retained shall be deposited in the military justice fund or to whomever the court so directs [to an officer executing its process. The amount of any such fine may be noted upon any state roll or account for pay of the delinquent and deducted from any pay or allowance due or thereafter to become due him, until the fine is liquidated. Any sum so deducted from any state pay or allowance shall be turned into the military court which imposed the fine and shall be paid over by the officer receiving the same in like manner as provided for other fines and moneys collected under a sentence of a summary court martial. A fine or penalty imposed by a military court upon an officer or enlisted man shall be paid by the collecting officer, and within thirty (30) days after collection, to the Treasurer of the Commonwealth of Kentucky, and it shall form a part of and be credited to the military fund of such organization or detachment. The Treasurer of the Commonwealth of Kentucky shall thereupon report the amount thereof, designating the organization or detachment to which it belongs, to the adjutant general of the state].~~

➔SECTION 147. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

This code shall be so construed as to effectuate its general purpose to make it uniform, so far as practical, with the Uniform Code of Military Justice, 10 U.S.C. Chapter 47.

➔Section 148. KRS 35.415 is repealed, reenacted as a new section of KRS Chapter 35, and amended to read as follows:

All persons acting under the provisions of this code, whether as a member of the military or as a civilian, shall be immune from any personal liability for any of the acts or omissions which they did or failed to do as part of their duties under this code. [No action or proceeding shall be prosecuted or maintained against the convening authority or a member of a military court or officer or person acting under its authority or reviewing its proceedings on account of the approval or imposition or execution of any sentence or the imposition or collection of a fine or penalty, or the execution of any process or mandate of a military court.]

➔SECTION 149. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

The provisions of this code are hereby declared to be severable and if any provision of this code or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this code.

➔Section 150. KRS 35.430 is repealed, reenacted as a new section of KRS Chapter 35, and amended to read as follows:

This chapter ~~shall be known and~~ may be cited ~~and referred to~~ as the Kentucky Code of Military Justice.

➔SECTION 151. A NEW SECTION OF KRS CHAPTER 35 IS CREATED TO READ AS FOLLOWS:

Upon the effective date of this Act, this chapter supersedes all existing statutes, ordinances, directives, rules, regulations, orders, and other laws in the state covered by the subject matter of this chapter, and all such statutes, ordinances, directives, rules, regulations, orders, and other laws are hereby superseded.

➔Section 152. The following KRS sections are repealed:

- 35.025 Dismissal of commissioned officers.
- 35.040 Apprehension of deserters.
- 35.095 Jurisdiction of summary courts-martial.
- 35.115 Who may convene a summary court-martial.
- 35.135 Persons ineligible as staff judge advocate or legal officer to reviewing authority upon same case.
- 35.295 Record to be forwarded to reviewing authority.

- 35.305 Return of record for reconsideration or revision.
- 35.315 Approval of findings by convening authority.
- 35.330 Approval of finding on lesser included offense.
- 35.335 Counsel for accused before reviewing authority.
- 35.370 Direct communication between convening authorities, judge advocates and legal officers.
- 35.405 Process and mandates of military courts.
- 35.420 Jurisdiction of military courts presumed.
- 35.436 Application of substantive provisions to persons in duty status only.
- 35.485 Improper handling of military property.
- 35.565 Persons charged with certain crimes against the United States or the Commonwealth to be turned over to civil authorities.

➔SECTION 153. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

- (1) *The commission shall develop a policy for reviewing and accepting the training and service of any member of the United States military who served as a firefighter towards certification as a firefighter in the Commonwealth of Kentucky.*
- (2) *The commission shall promulgate administrative regulations in accordance with KRS Chapter 13A as necessary to implement the provisions of this section.*

➔SECTION 154. A NEW SECTION OF KRS CHAPTER 311A IS CREATED TO READ AS FOLLOWS:

- (1) *Any member of the United States military who is registered by the National Registry of Emergency Medical Technicians as an Emergency Medical Technician-Basic, Emergency Medical Technician-Intermediate, or Emergency Medical Technician-Paramedic shall be eligible for direct reciprocity for initial Kentucky certification as an emergency medical technician.*
- (2) *The Kentucky Board of Emergency Medical Services shall promulgate administrative regulations in accordance with KRS Chapter 13A as necessary to implement the provisions of this section.*

➔Section 155. Any board or commission in the Commonwealth of Kentucky that has at least one (1) member appointed by the Governor is highly encouraged to:

- (1) Identify military occupational specialties that are the same as or similar to occupations that the board or commission is responsible for the licensure or certification of;
- (2) Develop a process for reviewing the training and service of members of the United States military whose occupational specialties have been identified as being similar or the same as occupations that the board or commission is responsible for the licensure and certification of; and
- (3) When possible, accept relevant military training and service towards licensure or certification in the occupation which the board or commission is responsible for.

➔SECTION 156. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The Kentucky Long Rifle is named and designated the official gun of the Commonwealth of Kentucky.

➔Section 157. The General Assembly hereby designates the Commonwealth of Kentucky as a Purple Heart State in honor of the service and sacrifices of our nation's men and women in uniform who are wounded or killed by the enemy while serving to protect the freedoms enjoyed by all Americans.

➔Section 158. KRS 56.820 is amended to read as follows:

- (1) This section shall apply when the built-to-suit process involves the construction of a building on state-owned land.
- (2) Upon the execution of a lease awarded under this section, the Commonwealth shall convey to the individual or firm to whom such lease has been awarded, in fee simple with covenant of general warranty of title, the real estate upon which the building is to be constructed under this lease. The lease shall provide for an initial lease term commencing on the date the building is accepted for occupancy by the Commonwealth, but not later than thirty (30) days after the owner's architect has certified that construction of the building has been completed,

and ending June 30 of the second year of the then current fiscal biennium of the Commonwealth, with an option in the Commonwealth, as lessee, to extend the term of the lease for a term of two (2) years from the expiration of the original term of the lease and for two (2) years from the expiration of each extended term of the lease, until the original term of the lease has been extended for a total number of years to be agreed upon by the parties at a rental which, if paid for the original term and for each of the full number of years for which the term of the lease may be extended, will amortize the total cost of the erection of the building and appurtenances. The rent shall be paid at such times as the parties to the lease agreed upon. The lease shall provide that the lessee may, at the expiration of the original or any extended term, purchase the leased premises at a stated price, which shall be the balance of the total cost of erection of the building and appurtenances not amortized by the payments of rent previously made by the lessee. The lease shall provide that in the event of the exercise of the option to purchase the leased premises or in the event the lease has been extended for the full number of years which it is agreed the same may be extended, and all rents and payments provided for in the lease have been made, the lessor shall convey the premises to the lessee in fee simple with covenant of general warranty of title. The lease may provide that the lessee shall, as additional rent for the leased premises, pay all taxes assessed against the leased premises, and the cost of insuring the building erected thereon against loss or damage by fire and windstorm in such sum as may be agreed by the parties thereto.

- (3) *For buildings located in Fayette County, the commissioner of the Department for Facilities Management on behalf of the Department for Military Affairs may award a built-to-suit lease for built-to-suit projects without the conveyance of title required in subsection (2) of this section. Any lease agreement under this subsection shall be awarded in accordance with the provisions of KRS Chapter 45A. The provisions of KRS 56.8163, 56.8165, 56.8167, 56.8169, 56.8171, and 56.8173 shall not apply to built-to-suit leases awarded under this subsection. Any lease agreement established under this subsection shall provide that title to all improvements shall vest in the Commonwealth upon completion of the term of the lease.*

➔Section 159. KRS 132.195 is amended to read as follows:

- (1) When any real or personal property which is exempt from taxation is leased or possession is otherwise transferred to a natural person, association, partnership, or corporation in connection with a business conducted for profit, the leasehold or other interest in the property shall be subject to state and local taxation at the rate applicable to real or personal property levied by each taxing jurisdiction.
- (2) Subsection (1) of this section shall not apply to interests in:
- (a) Industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit or tax-exempt statutory authority under the provisions of KRS Chapter 103, the taxation of which is provided for under the provisions of KRS 132.020 and 132.200;
 - (b) Federal property for which payments are made in lieu of taxes in amounts equivalent to taxes which might otherwise be lawfully assessed;
 - (c) Property of any state-supported educational institution;
 - (d) Vending stand locations and facilities operated by blind persons under the auspices of the Office for the Blind, regardless of whether the property is owned by the federal, state, or a local government;~~{-or}~~
 - (e) Property of any free public library; *or*
 - (f) *Property in Fayette County, Kentucky administered by the Department of Military Affairs, Bluegrass Station Division.*
- (3) Taxes shall be assessed to lessees of exempt real or personal property and collected in the same manner as taxes assessed to owners of other real or personal property, except that taxes due under this section shall not become a lien against the property. When due, such taxes shall constitute a debt due from the lessee to the state, county, school district, special district, or urban-county government for which the taxes were assessed and if unpaid shall be recoverable by the state as provided in KRS Chapter 134.

➔Section 160. Whereas the Department for Military Affairs, Bluegrass Station Division requires immediate authorization to begin work on construction of the buildings in order for the buildings to be completed on time, an emergency is declared to exist, and Sections 158 and 159 of this Act take effect upon their passage and approval by the Governor or upon their otherwise becoming a law.

Signed by Governor March 19, 2013.

CHAPTER 33**(HB 173)**

AN ACT relating the motor vehicles leased by units of government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 186.060 is amended to read as follows:

- (1) Applications for registration of motor vehicles leased or owned by a county, city, urban-county, or board of education, or emergency and ambulance vehicles operated by nonprofit corporations organized by units of government in the state or by the state or federal government shall be accompanied by a statement from the head of the department of the governmental unit that leases or owns the motor vehicle, certifying that the motor vehicle is leased or owned and operated by the governmental unit. The application and statement shall be forwarded by the county clerk to the cabinet, which shall give special authority to the clerk to register it. Upon receiving that authority, the clerk shall issue a registration receipt and the official number plate described in KRS 186.240(1)(c), and report the registration to the head of the department authorizing the registration. For his services in issuing such certificate of registration and number plate and reporting the same, the county clerk shall be entitled to a fee of three dollars (\$3) in each instance, to be paid by the department upon whose authorization such license was issued.
- (2) After such registration of any vehicle leased or owned by a county, city, urban-county, or board of education, or emergency and ambulance vehicles operated by nonprofit corporations organized by units of government in the state, or by the state or federal government and after issuance of such number plate for such vehicle so leased or owned, no subsequent registration or renewal of same, and no subsequent renewal of a number plate of the vehicle shall be necessary so long as the vehicle is leased or owned by the governmental unit except in the case of loss or destruction of the license plate. In the event of loss or destruction, the number plate shall be replaced in the same manner as if no plate had ever been issued.
- (3) When a motor vehicle leased or owned by a county, city, urban-county, or board of education, or emergency and ambulance vehicles operated by nonprofit corporations organized by units of government in the state, or by the state or federal government is transferred or sold to another governmental unit, a new license plate shall be issued for the vehicle in the same manner as provided for in subsection (1) of this section and shall have the same effect as given to such license plates in subsection (2) of this section.
- (4) No person shall use on a motor vehicle, not leased or owned by a county, city, urban-county, board of education, or emergency and ambulance vehicles operated by nonprofit corporations organized by units of government in the state, or the state or federal government, any license plate that has been issued for use on a motor vehicle leased or owned by the governmental unit.
- (5) ***Notwithstanding the provisions of KRS 186.020 and 186.050, a governmental entity which leases a motor vehicle may have that vehicle equipped with an official plate under this section. Upon termination of the lease agreement, if ownership of the motor vehicle does not revert to an entity allowed to use an official plate under this section, the owner of the motor vehicle shall surrender the official plates and apply for registration under the provisions of KRS 186.050.***

Signed by Governor March 19, 2013.

CHAPTER 34**(HB 174)**

AN ACT relating to transit tags for motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

- (1) *Individual sellers or owners of motor vehicles that would ordinarily be registered under KRS 186.050(3) may obtain a transit tag from the Transportation Cabinet in order to transport the motor vehicle out of state. The fee for each transit tag issued shall be five dollars (\$5).*
- (2) *A transit tag issued under this section shall be issued only for a motor vehicle which is ineligible for:*
 - (a) *Registration under KRS 186.050; or*
 - (b) *Temporary registration under KRS 186A.100.*
- (3) *The Transportation Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A to establish application forms and procedures for the issuance of transit tags. The application for a transit tag under this section shall be accompanied by proof of vehicle ownership and proof of insurance coverage in compliance with KRS 304.39-080.*
- (4) *A transit tag issued under this section shall be placed on a motor vehicle in the same manner as a regular license plate.*
- (5) *Transit tags issued under this section shall expire fifteen (15) days from the date of issuance, and shall be designed in a manner that clearly identifies the expiration date on the face of the tag in a tamper-resistant manner.*
- (6) *This section shall not apply to motor vehicle dealers or distributors licensed under KRS Chapter 190.*

➔Section 2. This Act takes effect January 1, 2014.

Signed by Governor March 19, 2013.

CHAPTER 35

(HB 219)

AN ACT relating to rebuilt title applications.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 186.115 is amended to read as follows:

When the owner of a motor vehicle which has been assembled from parts from wrecked or salvaged motor vehicles presents such a vehicle for registration, he *or she* shall submit an affidavit and any invoices showing the purchase of such parts to *either* the county clerk *or the Kentucky Transportation Cabinet's central office in Frankfort*. The county clerk shall forward *all applications received* ~~the application~~ to the Transportation Cabinet. The cabinet will either authorize or prohibit the *registration of* ~~clerk from registering~~ the vehicle.

Signed by Governor March 19, 2013.

CHAPTER 36

(HB 260)

AN ACT relating to tax increment financing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 154.30-050 is amended to read as follows:

- (1) The Signature Project Program is hereby established. The purpose of this program is to encourage private investment in the development of major projects that will have a significant impact on the Commonwealth of Kentucky and are judged to be of such a magnitude that the effect upon the location of such project warrants extraordinary public support.

- (2) There shall be two (2) separate initiatives under this program. The first initiative, the criteria and details of which are set forth in paragraph (a) of this subsection, shall apply to qualifying projects that are not the subject of a contract under KRS 65.495 in effect on or before the March 23, 2007, but that have a project grant agreement executed pursuant to KRS 154.30-070 prior to January 1, 2008. The second initiative, the criteria and details of which are set forth in paragraph (b) of this subsection, shall apply to projects that meet the specified requirements on or after January 1, 2008.
- (a) For projects that are not the subject of a contract under KRS 65.495 in effect on or before March 23, 2007, but that have a project grant agreement executed pursuant to the provisions of KRS 154.30-070 prior to January 1, 2008:
1. The criteria for qualification shall be as follows:
 - a. The project shall represent new economic activity in the Commonwealth; and
 - b. The project shall result in a minimum capital investment of two hundred million dollars (\$200,000,000).
 2. The following provisions shall apply to projects that meet the criteria established in subparagraph 1. of this paragraph:
 - a. KRS 65.7051 shall not apply to the establishment of a development area;
 - b. The city or county in which the project is located shall adopt an ordinance establishing the development area. The ordinance shall be adopted in accordance with KRS 65.7053(1)(a), (b), (c), (d), (e), (h), (i), (j), (k), (l), and (m);
 - c. KRS 65.7049, 65.7053(2) and (3), 65.7057, 65.7059, 65.7061, 65.7063, 65.7065, and 65.7067, relating to local development areas, shall apply;
 - d. An application for state participation shall have been submitted as provided in KRS 154.30-030. The application shall include the information required by KRS 154.30-030(2)(a) 1.a. and b.;
 - e. The report provided for in KRS 154.30-030(2)(a) 3.b. shall not be required, and the certification required by KRS 154.30-030(6)(b) shall not be required;
 - f. A project grant agreement shall be executed in accordance with KRS 154.30-070; and
 - g. KRS 154.30-080 and 154.30-090 shall apply.
 3. Projects that meet the criteria established in subparagraph 1. of this paragraph shall be eligible for the following:
 - a. Up to one hundred percent (100%) of approved public infrastructure costs, excluding any sales and use tax paid, may be recovered;
 - b. Up to one hundred percent (100%) of the financing costs associated with approved public infrastructure costs may be recovered;
 - c. In a county containing a city of the first class, the local participation agreement may provide for the release of up to eighty percent (80%) of the increment from the tax levied under KRS 91A.390 derived by the governing body within the project development area. The amount released shall not exceed a base amount of four hundred thousand dollars (\$400,000) in the first year of the local participation agreement, which base amount shall be increased in each subsequent year of the grant agreement by four percent (4%); and
 - d. Up to one hundred percent (100%) of approved signature project costs, excluding any sales and use taxes paid, subject to the following:
 - i. The authority shall review proposed expenditures for inclusion in the tax incentive agreement. The authority may approve the type of expenditures it determines are necessary for completion of the private development; and
 - ii. Approved signature project costs shall be detailed in the tax incentive agreement.
- (b) Beginning January 1, 2008:

1. A project shall meet all of the following criteria to be considered for state participation under this program:
 - a. The project shall represent new economic activity in the Commonwealth;
 - b. The project shall result in a minimum capital investment of two hundred million dollars (\$200,000,000);
 - c. The project shall result in a net positive economic impact to the Commonwealth, taking into consideration any substantial adverse impact on existing Commonwealth businesses. The net positive impact shall be certified to the commission as required by KRS 154.30-030(6)(b); and
 - d. Not more than twenty percent (20%) of the capital investment or twenty percent (20%) of the finished square footage shall be devoted to the support or development of assets that will be utilized for the retail sale of tangible personal property.
2. Projects that meet the criteria established by subparagraph 1. of this paragraph shall comply with all relevant provisions of this subchapter.
3. Projects that meet the criteria established by subparagraphs 1. and 2. of this paragraph shall be eligible to recover:
 - a. Up to one hundred percent (100%) of approved public infrastructure costs, excluding any sales and use taxes paid;
 - b. Up to one hundred percent (100%) of the financing costs associated with approved public infrastructure costs; and
 - c. Up to one hundred percent (100%) of approved signature project costs, excluding sales and use taxes paid subject to the following:
 - i. The authority shall review proposed expenditures for inclusion in the tax incentive agreement. The authority may approve the type of expenditures it determines are necessary for completion of the private development; and
 - ii. Approved signature project costs shall be detailed in the tax incentive agreement.
- (3) The authority shall review the application, the certification required by KRS 154.30-030, if applicable, and supporting information as provided in KRS 154.30-030.
- (4) The authority shall specifically identify the state taxes from which incremental revenues will be pledged. The authority may pledge up to eighty percent (80%) of the incremental revenues from the identified state tax revenues from the footprint, provided that the maximum amount of incremental revenues that may be pledged for a project during the term of the tax incentive agreement from all approved state taxes shall not exceed one hundred percent (100%) of approved public infrastructure costs, approved signature project costs, and financing costs.
- (5) As part of the approval process, the authority shall determine the following:
 - (a) The footprint of the project;
 - (b) The maximum amount of approved public infrastructure costs, approved signature project costs, and financing costs;
 - (c) That the local revenues pledged to support the public infrastructure of the project, and local revenues pledged to support the overall project are of a sufficient amount to warrant participation of the Commonwealth in the project;
 - (d) The termination date of the tax incentive agreement, not to exceed thirty (30) years from the activation date;
 - (e) Any adjustments to be made to old revenues, in determining incremental revenues during each year of the term of the project grant agreement; and
 - (f) Any approved signature project costs;
- (6) For the purpose of making the determination required by KRS 139.515(2), the authority shall review the projected expenditures for tangible personal property used in the construction of a signature project, as defined

in KRS 139.515(1), and shall establish an approximate percentage of the total anticipated expenditures that are not included in the tax incentive agreement as approved public infrastructure costs or approved signature project costs. This percentage shall be communicated by the authority to the Department of Revenue, which shall use the information in administering the sales tax refund permitted by KRS 139.515.

- (7) If state income taxes or local occupational license taxes are included for a project that includes office space, the authority shall consider the impact of pledging these taxes on the ability to utilize other economic development projects at a later date.
- (8) The pledge of state incremental tax revenues of the Commonwealth by the authority shall be implemented through the execution of a tax incentive agreement between the Commonwealth and the agency, city, or county in accordance with KRS 154.30-070.
- (9) *Notwithstanding the minimum capital investment of two hundred million dollars (\$200,000,000) required by subsection (2)(b)1.b. of this section, the authority may, upon application of an agency that:*
- (a) *Was approved to proceed with a project after January 1, 2008, but before January 1, 2013, that, at the time of approval pledged to make the two hundred million dollar (\$200,000,000) investment requirement; and*
- (b) *Had a consultant report prepared pursuant to KRS 154.30-030(6);*
- approve a reduction in the required minimum capital investment to an amount not less than one hundred fifty million (\$150,000,000), subject to a corresponding adjustment of the maximum incremental revenue available for recovery as appropriate, based upon the recommendation of the consultant who prepared the report pursuant to KRS 154.30-030(6).*

Signed by Governor March 19, 2013.

CHAPTER 37

(HB 319)

AN ACT authorizing the payment of certain claims against the state which have been duly audited and approved according to law, and have not been paid because of the lapsing or insufficiency of former appropriations against which the claims were chargeable, or the lack of an appropriate procurement document in place, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. (1) There is appropriated out of the general fund and the transportation fund in the State Treasury for the purpose of compensating persons and companies named below for claims which have been duly audited and approved according to law, but have not been paid because of lapsing or insufficiency of former appropriations against which the claims were chargeable, or the lack of an appropriate procurement document in place, the amounts listed below:

Anthony/Barnes Lumber Co., Inc.	
7055 Benton Road	
Paducah, KY 42003	\$32,996.54
City of Williamstown	
400 North Main Street	
Williamstown, KY 41097	\$31,694.49
Colorado Technical University online	
4435 N. Chestnut Suite E	
Colorado Springs, CO 80907	\$2,494.00
CSX Transportation	

Attn: Kevan Kelly PO Box 116628 Atlanta, GA 30368-6628	\$49,890.00
Dixie Fuel Company, LLC PO Box 269 22 Grays Branch Road Grays Knob, KY 40829	\$23,370.00
Gateway Press Inc. 4500 Robards Lane Louisville, KY 40218	\$10,440.00
Jessamine County Fire District 1310 South Main Street Nicholasville, KY 40356	\$7,876.90
Learning Point and Associates 1120 E. Diehl Road, Suite 200 Naperville, IL 60563-1486	\$27,077.06
Lexington-Fayette Urban County Government 200 East Main Street Lexington, KY 40507	\$46,362.75
Louisville Metro Government 527 West Jefferson Louisville, KY 40202	\$46,965.02
Machetim Enterprises 3198 Frankfort Road Georgetown, KY 40324	\$2,800.00
McElroy, Mitchell, & Associates, LLP PO Box 528 Morganfield, KY 42437	\$1,343.75
Melissa Brymer 4328 West 178th Street Torrance, CA 90504	\$2,564.97
Premier Consulting Services, Inc. 720 Richerson Road Campbellsville, KY 42718	\$1,080.00
University of Kentucky-Executive Health Health Service Building Room 344, 830 S. Limestone Street Lexington, KY 40536-0582	\$2,475.00

(2) The claims listed below are for the payment of State Treasury checks payable to the persons or their personal representatives, and the firms listed, but not presented for payment within a period of five (5) years from the date of issuance of such checks as required by KRS 41.370 and 413.120.

	Amount
Check #B10271702 dated March 7, 2002 James D. & Sonja R. Bates 7000 Cottail Ct., Apt. 1 Louisville, KY 40291	\$59.39
Check #T103265251 dated March 21, 2005 Thomas & M. Baumler 4600 Wilkerson Bluff, Lot E Holt, FL 32564	\$177.00
Check #G109660195 dated May 1, 2006 Kerri R. Blades 651 Wimbledon Place Madisonville, KY 42431	\$300.00
Check #G13336810 dated January 7, 2002 Bobby's Body Shop C/O Charlotte McPherson 260 Forrest Hills Dr. Tompkinsville, KY 42167	\$221.70
Check #CS5068052 dated September 16, 1998 Paula Boyd 3510 London Pike Philpot, KY 42366	\$87.50
Check #CS5130355 dated October 1, 1998 Paula Boyd 3510 London Pike Philpot, KY 42366	\$62.50
Check #CS5193396 dated October 15, 1998 Paula Boyd 3510 London Pike Philpot, KY 42366	\$87.50
Check #CS5237662 dated October 28, 1998 Paula Boyd 3510 London Pike Philpot, KY 42366	\$62.50
Check #CS5311937 dated November 12, 1998 Paula Boyd 3510 London Pike	

Philpot, KY 42366	\$87.50
Check #CS5435703 dated December 9, 1998	
Paula Boyd	
3510 London Pike	
Philpot, KY 42366	\$87.50
Check #CS5662701 dated February 3, 1999	
Paula Boyd	
3510 London Pike	
Philpot, KY 42366	\$87.50
Check #CS5493810 dated December 23, 1998	
Paula Boyd	
3510 London Pike	
Philpot, KY 42366	\$87.50
Check #CS5237661 dated October 28, 1998	
Steven R. Boyd	
3510 London Pike	
Philpot, KY 42366	\$25.00
Check #T14429800 dated April 28, 2006	
Brian R. Campbell	
12723 St. Clair Drive	
Louisville, KY 40243	\$81.00
Check #T111644897 dated May 7, 2007	
Kelli L. Carmack	
PO Box 163	
Alexander, NC 28701	\$223.00
Check #T10653209 dated April 2, 2002	
Stacy L. Carmichael	
3351 Nantucket Drive	
Lexington, KY 40502	\$544.00
Check #T104603684 dated June 14, 2006	
Rohit Chopra OD	
1339 N Dearborn St., Apt. 3E	
Chicago, IL 60610	\$1,720.00
Check #T12749009 dated May 5, 2004	
Gerri D. Cotton	
165 Dees Road	
London, KY 40744	\$76.00
Check #E111025984 dated October 18, 2006	
Richard A. & M. Dillingham	

42 Hurt Lane Scottsville, KY 42164	\$186.00
Check #E11984287 dated July 9, 2003 Matthew M. Dillon 316 Lafayette Ave., Apt. B Lexington, KY 40502	\$167.00
Check #E12070609 dated June 18, 2004 Matthew M. Dillon 316 Lafayette Ave., Apt. B Lexington, KY 40502	\$151.00
Check #E12152759 dated June 14, 2005 Matthew M. Dillon 316 Lafayette Ave., Apt. B Lexington, KY 40502	\$98.00
Check #T111307093 dated February 9, 2007 Matthew M. Dillon 316 Lafayette Ave., Apt. B Lexington, KY 40502	\$117.00
Check #T4636988 dated May 15, 1997 Alonzo Jr. & J. A. Dorsey PO Box 543 Louisville, KY 40201	\$631.00
Check #E11899836 dated August 29, 2002 Romeo A. & J. E. Ecarma 5706 Blue Spruce Ct. Louisville, KY 40214	\$811.00
Check #T100578427 dated March 22, 2002 Angela D. Gordon 10504 Southern Meadows, Apt. 104 Louisville, KY 40241	\$120.00
Check #T14584105 dated June 7, 2006 Emily A. Green 172 Mockingbird Way Mt. Washington, KY 40047	\$64.00
Check #E1063939 dated October 11, 1995 Estate of Harold B. & L. D. Helwig R. Stephen Burke, Admin Dressman, Benziner, LaVelle PSC 207 Thomas More Parkway	

Crestview Hills, KY 41017	\$147.87
Check #T111346147 dated March 22, 2007	
Matthew B. & Amy L. Jent	
1406 Lloyd Road	
Fredonia, KY 42411	\$52.00
Check #L100405756 dated January 20, 1994	
Landrum & Shouse LLP	
PO Box 951	
Lexington, KY 40588-0951	\$3,250.00
Check #B111003252 dated October 12, 2006	
Lease Partners, Inc.	
C/O WellPoint	
Mail Stop: OH0401-B264	
1351 William Howard Taft Rd	
Cincinnati, OH 45206	\$9,469.62
Check #T6809584 dated May 5, 1999	
Michael Lermer	
16000 Via Solera Circle #104	
Fort Myers, FL 33908	\$564.00
Check #E102217258 dated April 7, 2006	
Orville L. & Janice Lewis	
1516 Oglesby Cemetery Road	
While Plains, KY 42464	\$1,142.00
Check #T13238383 dated March 18, 2005	
Rosa Martinez	
8201 Minor Lane, Apt. 19	
Louisville, KY 40219	\$204.00
Check #T104550046 dated May 26, 2006	
Tracy L. McMichen	
7808 Kim Drive	
Louisville, KY 40214	\$123.00
Check #N111004489 dated November 28, 2006	
L. Michaels	
C/O Parks Payroll – Teresa Miner	
500 Mero Street, 11th Floor	
Frankfort, KY 40601	\$10.80
Check #T12660903 dated April 16, 2004	
Estate of Jennifer L. Oswald	
C/O Betty J. Oswald	

3209 Travis Court Lexington, KY 40515	\$55.00
Check #T14543405 dated May 25, 2006 William & G. E. Pike 1012 Tom Hackley Road Danville, KY 40422	\$372.00
Check #P111372455 dated July 13, 2007 Patricia S. Preston 312 Twinbrook Drive Danville, KY 40422	\$1,117.86
Check #E12217735 dated April 10, 2006 Mrs. Fred R. Roberts 134 Hillside Lane Louisville, KY 40229	\$53.07
Check #G2505743 dated September 10, 1996 Robert L. Rose 51 South Main Street Winchester, KY 40391	\$98.00
Check #T10799523 dated May 6, 2002 David L. Rutherford 1713 Cheak Court Louisville, KY 40213	\$474.00
Check #T12754177 dated May 6, 2002 David L. Rutherford 1713 Cheak Court Louisville, KY 40213	\$506.00
Check #T12855478 dated July 26, 2004 David L. Rutherford 1713 Cheak Court Louisville, KY 40213	\$516.00
Check #B10320323 dated September 29, 2005 Siemens Corporation Attn: Chris Earman 3850 Quadrangle Blvd Orlando, FL 32817	\$1,185.22
Check #N10056133 dated June 3, 2005 W. Sigerseth C/O Parks Payroll – Teresa Miner 500 Mero St., 11th Floor	

Frankfort, KY 40601	\$116.63
Check #T10776711 dated May 1, 2002	
K. G. & E. D. Simmons	
6620 Thoreau Vlg.	
Utica, KY 42376	\$390.00
Check #T102809476 dated May 19, 2004	
Raymond A. Sr. & K. Spencer	
1209 Hawthorne Avenue	
Reedsport, OR 97467	\$169.00
Check #T13519984 dated April 18, 2005	
Bernie W. & J. Staples	
6565 State Route 176	
Drakesboro, KY 42337	\$288.00
Check #Y17923258 dated March 8, 2005	
Lufran Stewart	
C/O Child Support	
730 Schenkel Lane	
Frankfort, KY 40601	\$95.00
Check #T14423138 dated January 27, 2006	
David L. & B. B. Thomas	
1716 Fraser Drive	
Louisville, KY 40205	\$532.00
Check #T10898660 dated May 23, 2002	
Linda Urmson	
612 Freeman Drive	
Lexington, KY 40505	\$260.00
Check #Y19059688 dated October 3, 2005	
Kathryn Wood	
402 Grande Ave	
Somerset, KY 42501	\$63.53
Check #Y19149605 dated October 18, 2005	
Kathryn Wood	
402 Grande Ave	
Somerset, KY 42501	\$114.48
Check #Y19277426 dated November 9, 2005	
Kathryn Wood	
402 Grande Ave	
Somerset, KY 42501	\$133.53
Check #Y19304421 dated November 15, 2005	

Kathryn Wood 402 Grande Ave Somerset, KY 42501	\$133.53
Check #M100614894 dated June 27, 2006 Yalinie Medics 80 Hospital Drive Barbourville, KY 40906	\$22.74
Check #M111029817 dated October 9, 2006 Yalinie Medics 80 Hospital Drive Barbourville, KY 40906	\$173.44
Check #M111045508 dated November 27, 2006 Yalinie Medics 80 Hospital Drive Barbourville, KY 40906	\$657.60
Check #M11062293 dated January 22, 2007 Yalinie Medics 80 Hospital Drive Barbourville, KY 40906	\$133.32
Check #M111084560 dated April 2, 2007 Yalinie Medics 80 Hospital Drive Barbourville, KY 40906	\$102.77
Check #M1110890353 dated April 16, 2007 Yalinie Medics 80 Hospital Drive Barbourville, KY 40906	\$147.72

➔Section 2. Whereas the persons and companies named above have furnished in good faith services, supplies, materials, and the Commonwealth has received the same, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 19, 2013.

CHAPTER 38

(HB 441)

AN ACT relating to toll administration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 175B.015 is amended to read as follows:

- (1) The Kentucky Public Transportation Infrastructure Authority is hereby established as an independent de jure municipal corporation and political subdivision of the Commonwealth constituting a governmental agency and instrumentality of the Commonwealth. The General Assembly hereby finds and declares that in carrying out its functions, powers, and duties as prescribed in this chapter, the state authority will be performing essential public and government functions that improve the public welfare and prosperity of the people of the Commonwealth by promoting the availability of and enhancing accessibility to improved transportation services within the Commonwealth.
- (2)
 - (a) The state authority shall be composed of the following eleven (11) voting members:
 1. The secretary of the Finance and Administration Cabinet, or the secretary's designee;
 2. The secretary of the Transportation Cabinet;
 3. A representative of the Kentucky Association of Counties, to be appointed by the Governor;
 4. A representative of the Kentucky County Judges/Executive Association, to be appointed by the Governor;
 5. A representative of the Kentucky League of Cities, to be appointed by the Governor; and
 6. Six (6) citizen members to be appointed by the Governor and confirmed by the Senate in accordance with KRS 11.160, at least two (2) of whom shall be familiar with road and bridge design or the financing and administration of transportation infrastructure projects; and
 - (b) Each Kentucky member who shares duties as a presiding officer of a bi-state authority pursuant to KRS 175B.030(4)(a)3. shall serve as a nonvoting ex officio member.
- (3) The ex officio members shall serve for the term of their respective offices.
- (4) Members appointed pursuant to subsection (2)(a)3. to 6. of this section shall begin their terms on October 1, 2009, and shall be appointed for a term of four (4) years; however, in making initial appointments, the members appointed pursuant to subsection (2)(a)6. of this section shall include two (2) members for a term of two (2) years, two (2) members for a term of three (3) years, and two (2) members for a term of four (4) years.
- (5) Vacancies occurring during the term of any member shall be filled in the same manner as the original appointment.
- (6) The members of the state authority shall receive no compensation for their services, but shall be entitled to reimbursement for all reasonable expenses necessary and incidental to the performance of their duties and functions as members of the state authority.
- (7)
 - (a) Members of the state authority shall be considered public servants subject to KRS Chapter 11A.
 - (b) The following individuals or entities shall be prohibited from entering into any contract or agreement with the state authority:
 1. Any member of the state authority, a project authority, or a bi-state authority;
 2. Any spouse, child, stepchild, parent, stepparent, or sibling of a member of the state authority, a project authority, or a bi-state authority; and
 3. Any corporation, limited liability entity, or other business entity of which a person identified in subparagraph 1. or 2. of this paragraph is an owner, member, or partner or has any other ownership interest.
- (8)
 - (a) The chairman of the state authority shall be the secretary of the Transportation Cabinet.
 - (b) The members of the state authority shall elect a vice chairman and a secretary from the membership.
- (9) The Finance and Administration Cabinet shall provide fiscal consultant services to the state authority.
- (10) The state authority shall hold its initial meeting no later than November 1, 2009, and shall meet as needed thereafter, or at least quarterly if any bi-state authority or project authority exists, with adequate notice at the call of the chair. A quorum of at least fifty percent (50%) of the members of the state authority must be present for the state authority to take any action. At least eight (8) members shall vote in the affirmative for the state authority to approve a new project. All other business shall be approved by a majority vote of the members present.

- (11) (a) The state authority shall be attached for administrative purposes to the Transportation Cabinet. The state authority shall establish and maintain an office, and the secretary of the state authority shall maintain complete records of the state authority's actions and proceedings as public records open to inspection.
- (b) The state authority shall employ staff as needed in the conduct of its duties and functions, and shall fix their compensation.
- (12) The state authority may promulgate administrative regulations in accordance with KRS Chapter 13A as needed:
- (a) *Establishing collection and enforcement procedures, including fines, charges, assessments, and other enforcement mechanisms, for the violation of subsection (4) of Section 2 of this Act, and for violation of any administrative regulation promulgated under this subsection;*
- (b) *Establishing an appeals process by which a person may contest a violation of subsection (4) of Section 2 of this Act, or a violation of any administrative regulation promulgated under this subsection, by way of an administrative hearing to be conducted in accordance with KRS Chapter 13B;*
- (c) *Relating to any matters necessary to the efficient administration of tolls when implemented for a project developed under this chapter; and*
- (d) To fulfill *any other*~~(the)~~ requirements of this chapter.
- (13) The state authority shall comply with applicable provisions of KRS Chapter 45A in the development of a project and the procurement of goods and services.
- (14) The records of the state authority shall be considered open records pursuant to KRS 61.870 to 61.884.
- (15) The meetings of the state authority shall be considered open meetings pursuant to KRS 61.805 to 61.850.

➔Section 2. KRS 175B.040 is amended to read as follows:

- (1) If imposed as part of the financing plan, tolls shall be fixed and adjusted by the developing authority to provide a fund sufficient with other revenues, if any, to:
- (a) Pay the cost of maintaining, repairing, and operating the project, unless the cost or any part thereof is being paid by the Commonwealth as authorized by this chapter;
- (b) Pay the principal of and interest on the project revenue bonds; and
- (c) Create reserves not to exceed amounts specified in the development agreement.
- (2) Unless a transfer of ownership of a project occurs pursuant to KRS 175B.095, the developing authority shall at all times maintain ownership and control of all tolls and other revenues generated by the project. Toll revenues shall not be subject to supervision or regulation by any other department, division, authority, board, bureau, or agency of a local government or the Commonwealth.
- (3) (a) The tolls and all other revenues derived from the project, except those revenues necessary to pay the cost of maintenance, repair, and operation and to establish and maintain reserves as may be provided for in the authorization of the issuance of the project revenue bonds or in the trust indenture securing the project revenue bonds, shall be set aside in a sinking fund which shall be pledged to, and charged with, the payment of principal and interest on the project revenue bonds as they become due, and the redemption price or the purchase price of project revenue bonds retired by call or purchase as provided in the authorization of issuance.
- (b) The pledge of the sinking fund shall be valid and binding from the time when the pledge is made.
- (c) The tolls or other revenues received and pledged by the developing authority shall immediately be subject to the lien of the pledge without any physical delivery or further action, and the lien on any pledge shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the developing authority, whether the parties have received notice or not.
- (d) Neither the proceedings nor any trust indenture by which a pledge is created need be filed or recorded, except in the records of the issuing authority.
- (e) The use and disposition of moneys to the credit of the sinking fund shall be subject to the provisions of the proceedings authorizing the issuance of the project revenue bonds or the trust indenture.

- (4) (a) *Every person utilizing a project developed and tolled under this chapter shall pay the appropriate toll.*
- (b) *Any person who violates the provisions of this subsection shall be subject to the provisions of administrative regulations promulgated pursuant to subsection (12) of Section 1 of this Act.*
- (5) *Upon receiving notice, the cabinet shall suspend or withhold the annual registration of a vehicle used in the commission of a toll violation until:*
 - (a) *The fine, charge, or assessment has been paid; or*
 - (b) *The violation of subsection (4) of this section has been determined not to have occurred.*
- (6) (a) *Toll collection customer account information shall be confidential and not subject to disclosure under KRS 61.870 to 61.884. Contracts relating to toll collection for a project developed and tolled under this chapter shall ensure the confidentiality of all toll collection customer account information.*
- (b) *For the purposes of this section, "toll collection customer account information" means any information collected or received from or about any person who is assessed a toll, including contact information, payment information, trip data, and any other relevant data.*

➔Section 3. The General Assembly hereby recognizes the potential financial hardship created for low income users of a project developed under KRS Chapter 175B for which tolls are implemented as a component of a financing plan for the project. The General Assembly therefore encourages the Kentucky Transportation Cabinet and the Kentucky Public Transportation Infrastructure Authority, together with any bi-state authority or project authority, or any other entity empowered or created to facilitate the construction, operation and financing of a project developed under KRS Chapter 175B, to consider the feasibility of establishing toll rates based on user income level or any other mechanism to ameliorate financial hardship to low income users of a tolled project.

The General Assembly furthermore recognizes the important role public transportation plays in the provision of transit options for the citizens of the Commonwealth. To that end, the General Assembly encourages the Kentucky Transportation Cabinet and the Kentucky Public Transportation Infrastructure Authority, together with any bi-state authority or project authority, or any other entity empowered or created to facilitate the construction, operation and financing of a project developed under KRS Chapter 175B, to consider the feasibility of exempting mass transit vehicles from the payment of tolls for any project developed under the provisions of that chapter.

Signed by Governor March 19, 2013.

CHAPTER 39

(HB 290)

AN ACT relating to the external child fatality and near fatality review panel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

- (1) *An external child fatality and near fatality review panel is hereby created and established for the purpose of conducting comprehensive reviews of child fatalities and near fatalities, reported to the Cabinet for Health and Family Services, suspected to be a result of abuse or neglect. The panel shall be attached to the Justice and Public Safety Cabinet for staff and administrative purposes.*
- (2) *The external child fatality and near fatality review panel shall be composed of the following five (5) ex officio nonvoting members and fifteen (15) voting members:*
 - (a) *The chairperson of the House Health and Welfare Committee of the Kentucky General Assembly, who shall be an ex officio nonvoting member;*
 - (b) *The chairperson of the Senate Health and Welfare Committee of the Kentucky General Assembly, who shall be an ex officio nonvoting member;*
 - (c) *The commissioner of the Department for Community Based Services, who shall be an ex officio nonvoting member;*

- (d) *The commissioner of the Department for Public Health, who shall be an ex officio nonvoting member;*
 - (e) *A family court judge selected by the Chief Justice of the Kentucky Supreme Court, who shall be an ex officio nonvoting member;*
 - (f) *A pediatrician from the University of Kentucky's Department of Pediatrics who is licensed and experienced in forensic medicine relating to child abuse and neglect to be selected by the Attorney General from a list of three (3) names provided by the dean of the University of Kentucky School of Medicine;*
 - (g) *A pediatrician from the University of Louisville's Department of Pediatrics who is licensed and experienced in forensic medicine relating to child abuse and neglect to be selected by the Attorney General from a list of three (3) names provided by the Dean of the University of Louisville School of Medicine;*
 - (h) *The State Medical Examiner or designee;*
 - (i) *A court-appointed special advocate (CASA) program director to be selected by the Attorney General from a list of three (3) names provided by the Kentucky CASA Association;*
 - (j) *A peace officer with experience investigating child abuse and neglect fatalities and near fatalities to be selected by the Attorney General from a list of three (3) names provided by the commissioner of the Kentucky State Police;*
 - (k) *A representative from Prevent Child Abuse Kentucky, Inc. to be selected by the Attorney General from a list of three (3) names provided by the president of the Prevent Child Abuse Kentucky, Inc. Board of Directors;*
 - (l) *A practicing local prosecutor to be selected by the Attorney General;*
 - (m) *The executive director of the Kentucky Domestic Violence Association or the executive director's designee;*
 - (n) *The chairperson of the State Child Fatality Review Team established in accordance with KRS 211.684 or the chairperson's designee;*
 - (o) *A practicing social work clinician to be selected by the Attorney General from a list of three (3) names provided by the Board of Social Work;*
 - (p) *A practicing addiction counselor to be selected by the Attorney General from a list of three (3) names provided by the Kentucky Association of Addiction Professionals;*
 - (q) *A representative from the Family Resource and Youth Service Centers to be selected by the Attorney General from a list of three (3) names submitted by the Cabinet for Health and Family Services;*
 - (r) *A representative of a Community Mental Health Center to be selected by the Attorney General from a list of three (3) names provided by the Kentucky Association of Regional Mental Health and Mental Retardation Programs, Inc.;*
 - (s) *A member of a Citizen Foster Care Review Board selected by the Chief Justice of the Kentucky Supreme Court; and*
 - (t) *An at-large representative who shall serve as chairperson to be selected by the Secretary of State.*
- (3) (a) *By August 1, 2013, the appointing authority or the appointing authorities, as the case may be, shall have appointed panel members. Initial terms of members, other than those serving ex officio, shall be staggered to provide continuity. Initial appointments shall be: five (5) members for terms of one (1) year, five (5) members for terms of two (2) years, and five (5) members for terms of three (3) years, these terms to expire, in each instance, on June 30 and thereafter until a successor is appointed and accepts appointment.*
- (b) *Upon the expiration of these initial staggered terms, successors shall be appointed by the respective appointing authorities, for terms of two (2) years, and until successors are appointed and accept their appointments. Members shall be eligible for reappointment. Vacancies in the membership of the panel shall be filled in the same manner as the original appointments.*

- (c) *At any time, a panel member shall recuse himself or herself from the review of a case if the panel member believes he or she has a personal or private conflict of interest.*
 - (d) *If a voting panel member is absent from two (2) or more consecutive, regularly scheduled meetings, the member shall be considered to have resigned and shall be replaced with a new member in the same manner as the original appointment.*
 - (e) *If a voting panel member is proven to have violated subsection (13) of this section, the member shall be removed from the panel, and the member shall be replaced with a new member in the same manner as the original appointment.*
- (4) *The panel shall meet at least quarterly and may meet upon the call of the chairperson of the panel.*
- (5) *Members of the panel shall receive no compensation for their duties related to the panel, but may be reimbursed for expenses incurred in accordance with state guidelines and administrative regulations.*
- (6) *Each panel member shall be provided copies of all information set out in this subsection, including but not limited to records and information, upon request, to be gathered, unredacted, and submitted to the panel within thirty (30) days by the Cabinet for Health and Family Services, from the Department for Community Based Services or any agency, organization, or entity involved with a child subject to a fatality or near fatality:*
- (a) *Cabinet for Health and Family Services records and documentation regarding the deceased or injured child and his or her caregivers, residents of the home and or persons supervising the child at the time of the incident that include all records and documentation set out in this paragraph:*
 - 1. *All prior and ongoing investigations, services or contacts;*
 - 2. *Any and all records of services to the family provided by agencies or individuals contracted by the Cabinet for Health and Family Services; and*
 - 3. *All documentation of and actions taken as a result of child fatality internal reviews conducted pursuant to KRS 620.050(12)(b);*
 - (b) *Licensing reports from the Cabinet for Health and Family Services, Office of Inspector General, if an incident occurred in a licensed facility;*
 - (c) *All available records regarding protective services provided out of state;*
 - (d) *All records of services provided by the Department for Juvenile Justice regarding the deceased or injured child and his or her caregivers, residents of the home, and persons involved with the child at the time of the incident;*
 - (e) *Autopsy reports;*
 - (f) *Emergency medical service, fire department, law enforcement, coroner, and other first responder reports, including but not limited to photos and interviews with family members and witnesses;*
 - (g) *Medical records regarding the deceased or injured child, including but not limited to all records and documentation set out in this paragraph:*
 - 1. *Primary care records, including progress notes; developmental milestones; growth charts that include head circumference; all laboratory and X-ray requests and results; and birth record that includes record of delivery type, complications, and initial physical exam of baby;*
 - 2. *In-home provider care notes about observations of the family, bonding, others in home, and concerns;*
 - 3. *Hospitalization and emergency department records;*
 - 4. *Dental records;*
 - 5. *Specialist records; and*
 - 6. *All photographs of injuries of the child that are available;*
 - (h) *Educational records of the deceased or injured child, or other children residing in the home where the incident occurred, including but not limited to the records and documents set out in this paragraph:*

1. *Attendance records;*
2. *Special education services;*
3. *School based health records; and*
4. *Documentation of any interaction and services provided to the children and family.*

The release of educational records shall be in compliance with the Family Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g and its implementing regulations;

- (i) *Head Start records or records from any other child care or early child care provider;*
 - (j) *Records of any family, Circuit, or District court involvement with the deceased or injured child and his or her caregivers, residents of the home and persons involved with the child at the time of the incident that include but are not limited to the juvenile and family court records and orders set out in this paragraph, pursuant to KRS Chapters 199, 403, 405, 406, and 600 to 645:*
 1. *Petitions;*
 2. *Court reports by the Department for Community Based Services, Guardian Ad Litem, court-appointed special advocate, and the Citizen Foster Care Review Board;*
 3. *All orders of the court, including temporary, dispositional, or adjudicatory; and*
 4. *Documentation of annual or any other review by the court;*
 - (k) *Home visit records from the Department for Public Health or other services;*
 - (l) *All information on prior allegations of abuse or neglect and deaths of children of adults residing in the household;*
 - (m) *All law enforcement records and documentation regarding the deceased or injured child and his or her caregivers, residents of the home, and persons involved with the child at the time of the incident; and*
 - (n) *Mental Health records regarding the deceased or injured child and his or her caregivers, residents of the home, and persons involved with the child at the time of the incident.*
- (7) *The panel may seek the advice of experts, such as persons specializing in the fields of psychiatric and forensic medicine, nursing, psychology, social work, education, law enforcement, family law, or other related fields, if the facts of a case warrant additional expertise.*
 - (8) *The panel shall post updates after each meeting to the Web site of the Justice and Public Safety Cabinet regarding case reviews, findings, and recommendations.*
 - (9) *The panel chairperson, or other requested persons, shall report a summary of the panel's discussions and proposed or actual recommendations to the Interim Joint Committee on Health and Welfare of the Kentucky General Assembly monthly or at the request of a committee co-chair. The goal of the committee shall be to ensure impartiality regarding the operations of the panel during its review process.*
 - (10) *The panel shall publish an annual report by December 1 of each year consisting of case reviews, findings, and recommendations for system and process improvements to help prevent child fatalities and near fatalities that are due to abuse and neglect. The report shall be submitted to the Governor, the secretary of the Cabinet for Health and Family Services, the Chief Justice of the Supreme Court, the Attorney General, the and the director of the Legislative Research Commission for distribution to the Health and Welfare Committee and the Judiciary Committee.*
 - (11) *Information and record copies that are confidential under state or federal law and are provided to the external child fatality and near fatality review panel by the Cabinet for Health and Family Services, the Department for Community Based Services, or any agency, organization, or entity for review shall not become the information and records of the panel and shall not lose their confidentiality by virtue of the panel's access to the information and records. The original information and records, used to generate information and record copies provided to the panel in accordance with subsection (6) of this section, shall be maintained by the appropriate agency in accordance with state and federal law and shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. All open records requests shall be made to the appropriate agency, not to the external child fatality and near fatality review panel or any of the panel members. Information and record copies provided to the panel for review shall be exempt from the*

Kentucky Open Records Act, KRS 61.870 to 61.884. At the conclusion of the panel's examination, all copies of information and records provided to the panel involving an individual case shall be destroyed by the Justice and Public Safety Cabinet.

- (12) *Notwithstanding any provision of law to the contrary, the portions of the external child fatality and near fatality review panel meetings during which an individual child fatality or near fatality case is reviewed or discussed by panel members may be a closed session and subject to the provisions of KRS 61.815(1) and shall only occur following the conclusion of an open session. At the conclusion of the closed session, the panel shall immediately convene an open session and give a summary of what occurred during the closed session.*
- (13) *Each member of the external child fatality and near fatality review panel, any person attending a closed panel session, and any person presenting information or records on an individual child fatality or near fatality shall not release information or records not available under the Kentucky Open Records Act, KRS 61.870 to 61.884 to the public.*
- (14) *A member of the external child fatality and near fatality review panel shall not be prohibited from making a good faith report to any state or federal agency of any information or issue that the panel member believes should be reported or disclosed in an effort to facilitate effectiveness and transparency in Kentucky's child protective services.*
- (15) *A member of the external child fatality and near fatality review panel shall not be held liable for any civil damages or criminal penalties pursuant to KRS 620.990 as a result of any action taken or omitted in the performance of the member's duties pursuant to this section and Section 2 of this Act, except for violations of subsection (11), (12), or (13) of this section.*
- (16) *Beginning in 2014 the Legislative Program Review and Investigations Committee of the Kentucky General Assembly shall conduct an annual evaluation of the external child fatality and near fatality review panel established pursuant to this section to monitor the operations, procedures, and recommendations of the panel and shall report its findings to the General Assembly.*

➔Section 2. KRS 620.050 is amended to read as follows:

- (1) Anyone acting upon reasonable cause in the making of a report or acting under KRS 620.030 to 620.050 in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or action. However, any person who knowingly makes a false report and does so with malice shall be guilty of a Class A misdemeanor.
- (2) Any employee or designated agent of a children's advocacy center shall be immune from any civil liability arising from performance within the scope of the person's duties as provided in KRS 620.030 to 620.050. Any such person shall have the same immunity with respect to participation in any judicial proceeding. Nothing in this subsection shall limit liability for negligence. Upon the request of an employee or designated agent of a children's advocacy center, the Attorney General shall provide for the defense of any civil action brought against the employee or designated agent as provided under KRS 12.211 to 12.215.
- (3) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding a dependent, neglected, or abused child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding a dependent, neglected, or abused child.
- (4) Upon receipt of a report of an abused, neglected, or dependent child pursuant to this chapter, the cabinet as the designated agency or its delegated representative shall initiate a prompt investigation or assessment of family needs, take necessary action, and shall offer protective services toward safeguarding the welfare of the child. The cabinet shall work toward preventing further dependency, neglect, or abuse of the child or any other child under the same care, and preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care.
- (5) The report of suspected child abuse, neglect, or dependency and all information obtained by the cabinet or its delegated representative, as a result of an investigation or assessment made pursuant to this chapter, except for those records provided for in subsection (6) of this section, shall not be divulged to anyone except:
 - (a) Persons suspected of causing dependency, neglect, or abuse;

- (b) The custodial parent or legal guardian of the child alleged to be dependent, neglected, or abused;
 - (c) Persons within the cabinet with a legitimate interest or responsibility related to the case;
 - (d) Other medical, psychological, educational, or social service agencies, child care administrators, corrections personnel, or law enforcement agencies, including the county attorney's office, the coroner, and the local child fatality response team, that have a legitimate interest in the case;
 - (e) A noncustodial parent when the dependency, neglect, or abuse is substantiated;
 - (f) Members of multidisciplinary teams as defined by KRS 620.020 and which operate pursuant to KRS 431.600;
 - (g) Employees or designated agents of a children's advocacy center;~~{or}~~
 - (h) Those persons so authorized by court order; *or*
 - (i) ***The external child fatality and near fatality review panel established by Section 1 of this Act.***
- (6) (a) Files, reports, notes, photographs, records, electronic and other communications, and working papers used or developed by a children's advocacy center in providing services under this chapter are confidential and shall not be disclosed except to the following persons:
- 1. Staff employed by the cabinet, law enforcement officers, and Commonwealth's and county attorneys who are directly involved in the investigation or prosecution of the case;
 - 2. Medical and mental health professionals listed by name in a release of information signed by the guardian of the child, provided that the information shared is limited to that necessary to promote the physical or psychological health of the child or to treat the child for abuse-related symptoms;~~{and}~~
 - 3. The court and those persons so authorized by a court order; *and*
 - 4. ***The external child fatality and near fatality review panel established by Section 1 of this Act.***
- (b) The provisions of this subsection shall not be construed as to contravene the Rules of Criminal Procedure relating to discovery.
- (7) Nothing in this section shall prohibit a parent or guardian from accessing records for his or her child providing that the parent or guardian is not currently under investigation by a law enforcement agency or the cabinet relating to the abuse of a child.
- (8) Nothing in this section shall prohibit employees or designated agents of a children's advocacy center from disclosing information during a multidisciplinary team review of a child sexual abuse case as set forth under KRS 620.040. Persons receiving this information shall sign a confidentiality statement consistent with statutory prohibitions on disclosure of this information.
- (9) Employees or designated agents of a children's advocacy center may confirm to another children's advocacy center that a child has been seen for services. If an information release has been signed by the guardian of the child, a children's advocacy center may disclose relevant information to another children's advocacy center.
- (10) (a) An interview of a child recorded at a children's advocacy center shall not be duplicated, except that the Commonwealth's or county attorney prosecuting the case may:
- 1. Make and retain one (1) copy of the interview; and
 - 2. Make one (1) copy for the defendant's counsel that the defendant's counsel shall not duplicate.
- (b) The defendant's counsel shall file the copy with the court clerk at the close of the case.
- (c) Unless objected to by the victim or victims, the court, on its own motion, or on motion of the attorney for the Commonwealth shall order all recorded interviews that are introduced into evidence or are in the possession of the children's advocacy center, law enforcement, the prosecution, or the court to be sealed.
- (d) The provisions of this subsection shall not be construed as to contravene the Rules of Criminal Procedure relating to discovery.
- (11) Identifying information concerning the individual initiating the report under KRS 620.030 shall not be disclosed except:

- (a) To law enforcement officials that have a legitimate interest in the case;
 - (b) To the agency designated by the cabinet to investigate or assess the report;
 - (c) To members of multidisciplinary teams as defined by KRS 620.020 that operated under KRS 431.600~~;~~
~~or~~;
 - (d) Under a court order, after the court has conducted an in camera review of the record of the state related to the report and has found reasonable cause to believe that the reporter knowingly made a false report;
or
 - (e) *The external child fatality and near fatality review panel established by Section 1 of this Act.*
- (12) (a) Information may be publicly disclosed by the cabinet in a case where child abuse or neglect has resulted in a child fatality or near fatality.
- (b) The cabinet shall conduct an internal review of any case where child abuse or neglect has resulted in a child fatality or near fatality and the cabinet had prior involvement with the child or family. The cabinet shall prepare a summary that includes an account of:
1. The cabinet's actions and any policy or personnel changes taken or to be taken, including the results of appeals, as a result of the findings from the internal review; and
 2. Any cooperation, assistance, or information from any agency of the state or any other agency, institution, or facility providing services to the child or family that were requested and received by the cabinet during the investigation of a child fatality or near fatality.
- (c) The cabinet shall submit a report by September 1 of each year containing an analysis of all summaries of internal reviews occurring during the previous year and an analysis of historical trends to the Governor, the General Assembly, and the state child fatality review team created under KRS 211.684.
- (13) When an adult who is the subject of information made confidential by subsection (5) of this section publicly reveals or causes to be revealed any significant part of the confidential matter or information, the confidentiality afforded by subsection (5) of this section is presumed voluntarily waived, and confidential information and records about the person making or causing the public disclosure, not already disclosed but related to the information made public, may be disclosed if disclosure is in the best interest of the child or is necessary for the administration of the cabinet's duties under this chapter.
- (14) As a result of any report of suspected child abuse or neglect, photographs and X-rays or other appropriate medical diagnostic procedures may be taken or caused to be taken, without the consent of the parent or other person exercising custodial control or supervision of the child, as a part of the medical evaluation or investigation of these reports. These photographs and X-rays or results of other medical diagnostic procedures may be introduced into evidence in any subsequent judicial proceedings. The person performing the diagnostic procedures or taking photographs or X-rays shall be immune from criminal or civil liability for having performed the act. Nothing herein shall limit liability for negligence.

➔SECTION 3. A NEW SECTION OF KRS 6.900 TO 6.935 IS CREATED TO READ AS FOLLOWS:

Beginning in 2014 the Legislative Program Review and Investigations Committee of the Kentucky General Assembly shall conduct an annual evaluation of the external child fatality and near fatality review panel established pursuant to Section 1 of this Act to monitor the operations, procedures, and recommendations of the panel and shall report its findings to the General Assembly.

Signed by Governor March 20, 2013.

CHAPTER 40

(HB 1)

AN ACT relating to special purpose governmental entities, making an appropriation therefor, and declaring an emergency.

WHEREAS, special purpose governmental entities exist to serve a public purpose and must be subject to standards of accountability so that the public, other local governmental entities, and state government can be apprised of their status and activities; and

WHEREAS, for many years it has been impossible to compile a complete and accurate list of all the special purpose governmental entities operating in the Commonwealth, or to ascertain basic information about how those entities are operated, where they receive their funding, and how they expend their resources; and

WHEREAS, the General Assembly, in 12 RS HCR 53, directed the Interim Joint Committee on Local Government to study, during the 2012 Interim, special districts' fiscal, administrative, and ethical issues in light of audits conducted by the Auditor of Public Accounts; and

WHEREAS, numerous concerns relating to the accountability and transparency of special purpose governmental entities were recently highlighted in "Ghost Government – A Report on Special Districts in Kentucky" issued by the Auditor of Public Accounts on November 14, 2012; and

WHEREAS, the General Assembly intends, by enacting this legislation, to improve the public accountability and transparency of all special purpose governmental entities in the Commonwealth, for the benefit of the people whom these entities serve;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. KRS CHAPTER 65A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this chapter:

- (1) *"County" means any county, consolidated local government, urban-county government, unified local government, or charter county;*
- (2) *"DLG" means the Department for Local Government established by KRS 147A.002;*
- (3) *"Establishing entity" means the city or county, or any combination of cities and counties that established a special purpose governmental entity and that has not subsequently withdrawn its affiliation with the special purpose governmental entity by ordinance or other official action;*
- (4) *"Fee" means any user charge, rental fee, assessment, fee, schedule of rates, or tax, other than an ad valorem tax, imposed by a special purpose governmental entity;*
- (5)
 - (a) *"Private entity" means any entity whose sole source of public funds is from payments pursuant to a contract with a city, county, or special purpose governmental entity, including funds received as a grant or as a result of a competitively bid procurement process.*
 - (b) *"Private entity" does not include any entity:*
 1. *Created by a city, county, or combination of cities and counties to perform one (1) or more of the types of public services listed in subsection (7)(c) of this section; or*
 2. *Governed by a board, council, commission, committee, authority, or corporation whose members are appointed by the chief executive or governing body of a city, county, or combination of cities and counties;*
- (6) *"Public funds" means any funds derived from the levy of a tax, fee, assessment, or charge, or the issuance of bonds by the state or a city, county, or special purpose governmental entity;*
- (7) *"Registry" means the online central registry and reporting portal established pursuant to Section 2 of this Act; and*
- (8)
 - (a) *"Special purpose governmental entity" or "entity" means any agency, authority, or entity created or authorized by statute which:*
 1. *Exercises less than statewide jurisdiction;*
 2. *Exists for the purpose of providing one (1) or a limited number of services or functions;*
 3. *Is governed by a board, council, commission, committee, authority, or corporation with policy-making authority that is separate from the state and the governing body of the city, county, or cities and counties in which it operates; and*

4.
 - a. *Has the independent authority to generate public funds; or*
 - b. *May receive and expend public funds, grants, awards, or appropriations from the state, from any agency, or authority of the state, from a city or county, or from any other special purpose governmental entity.*
- (b) *"Special purpose governmental entity" shall include entities meeting the requirements established by paragraph (a) of this subsection, whether the entity is formed as a nonprofit corporation under KRS Chapter 273, pursuant to an interlocal cooperation agreement under KRS 65.210 to 65.300, or pursuant to any other provision of the Kentucky Revised Statutes.*
- (c) *Examples of the types of public services that may be provided by special purpose governmental entities include but are not limited to the following:*
 1. *Ambulance, emergency, and fire protection services;*
 2. *Flood control, drainage, levee, water, water conservation, watershed, and soil conservation services;*
 3. *Area planning, management, community improvement, and community development services;*
 4. *Library services;*
 5. *Public health, public mental health, and public hospital services;*
 6. *Riverport and airport services;*
 7. *Sanitation, sewer, waste management, and solid waste services;*
 8. *Industrial and economic development;*
 9. *Parks and recreation services;*
 10. *Construction, maintenance, or operation of roads and bridges;*
 11. *Mass transit services;*
 12. *Pollution control;*
 13. *Construction or provision of public housing;*
 14. *Tourism and convention services; and*
 15. *Agricultural extension services.*
- (d) *"Special purpose governmental entity" shall not include:*
 1. *Cities;*
 2. *Counties;*
 3. *School districts;*
 4. *Private entities;*
 5. *Any incorporated entity that:*
 - a. *Provides utility services;*
 - b. *Is member-owned; and*
 - c. *Has a governing body whose voting members are all elected by the membership of the entity; or*
 6. *Any entity whose budget and financial information are integrated with and included as a part of the budget and financial reporting of the city, county, or cities and counties in which it operates.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

(1) *The DLG shall*

- (a) *On or before March 1, 2014, make the necessary reporting and certification forms, online reporting portal, and online central registry available for reporting by special purpose governmental entities.*

The portal and registry shall serve as a unified location for the reporting of and access to administrative and financial information by special purpose governmental entities; and

- (b) *On or before October 1, 2014, make available online public access to administrative and financial information reported by special purpose governmental entities.*
- (2) (a) *For each fiscal period beginning on or after July 1, 2014, all special purpose governmental entities shall annually submit to the DLG the information required by this section. The information shall be submitted in accordance with this section, at the time, and in the form and format required by the DLG. The information submitted shall include at a minimum the following:*
 - 1. *Administrative information:*
 - a. *The name, address, and, if applicable, the term and appointing authority for each board member of the governing body of the entity;*
 - b. *The fiscal year of the entity;*
 - c. *The Kentucky Revised Statute under which the entity was established, the date of establishment, the establishing entity, and the statute or statutes under which the entity operates, if different from the statute or statutes under which it was established;*
 - d. *The mailing address and telephone number and, if applicable, the Web site uniform resource locator (URL) of the entity;*
 - e. *The operational boundaries and service area of the entity and the services provided by the entity;*
 - f. *A listing of all taxes, fees, or charges imposed and collected by the entity, including the rates or amounts charged for the reporting period and the statutory authority for the levy of the tax, fee, or charge;*
 - g. *The primary contact for the entity for purposes of communication from the DLG;*
 - h. *The code of ethics that applies to the entity, and whether the entity has adopted additional ethics provisions;*
 - i. *A listing of all federal, state, and local governmental entities that have oversight authority over the special purpose governmental entity or to which the special purpose governmental entity submits reports, data, or information; and*
 - j. *Any other related administrative information required by the DLG; and*
 - 2. *Financial information:*
 - a. *The most recent adopted budget of the entity;*
 - b. *After the close of each fiscal year, a comparison of the budget to actual revenues and expenditures for each fiscal year;*
 - c. *Completed audits or attestation engagements as provided in Section 3 of this Act; and*
 - d. *Other financial oversight reports or information required by the DLG.*
- (b) *The provisions of Section 4 of this Act shall apply when a special purpose governmental entity fails to submit the information required by this section in a timely manner, or submits information that does not comply with the requirements and standards established by this section and the DLG. To facilitate the enforcement of these provisions, the DLG shall establish and maintain an online list of due dates for the filing of reports, audit certifications, and information for each special purpose governmental entity.*
- (c) *The provisions of this subsection shall be in addition to, and shall not supplant or replace any reporting or filing requirements established by other provisions of the Kentucky Revised Statutes.*
- (3) (a) *The DLG shall, by administrative regulation adopted pursuant to KRS Chapter 13A, develop standard forms, protocols, timeframes, and due dates for the submission of information by special purpose governmental entities. All information shall be submitted electronically; however, the DLG may allow submission by alternative means, with the understanding that the DLG shall be*

responsible for converting the information to a format that will make it accessible through the registry.

- (b) *In an effort to reduce duplicative submissions to different governmental entities and agencies, during the development of the forms, protocols, timeframes, and due dates, the DLG shall consult with other governmental entities and agencies that may use the information submitted by special purpose governmental entities, and may include the information those agencies and entities need to the extent possible.*
- (4) (a) *Beginning October 1, 2014, all information submitted by special purpose governmental entities under this section shall be publicly available through the registry. The registry shall be updated at least monthly, but may be updated more frequently at the discretion of the DLG. The registry shall include a notation indicating the date of the most recent update.*
- (b) *The registry shall be in a searchable format and shall, at a minimum, allow a search by county, by special purpose governmental entity name, and by type of entity.*
- (c) *To the extent possible, the registry shall be linked to or accessed through the Web site established pursuant to KRS 42.032 to provide public access to expenditure records of the executive branch of state government.*
- (5) (a) *To offset the costs incurred by the DLG in maintaining and administering the registry, the costs incurred in providing education for the governing bodies and employees of special purpose governmental entities as required by Section 6 of this Act, and the costs incurred by the DLG and the Auditor of Public Accounts in responding to and acting upon noncompliant special purpose governmental entities under Section 4 of this Act, excluding costs associated with conducting audits or special examinations, each special purpose governmental entity shall pay a registration fee to the DLG on an annual basis at the time of registration under this section.*
- (b) *The initial annual fee shall be as follows:*
 - 1. *For special purpose governmental entities with annual revenue from all sources of less than one hundred thousand dollars (\$100,000), twenty-five dollars (\$25);*
 - 2. *For special purpose governmental entities with annual revenues from all sources of at least one hundred thousand dollars (\$100,000) but less than five hundred thousand dollars (\$500,000), two hundred fifty dollars (\$250); and*
 - 3. *For special purpose governmental entities with annual revenues of five hundred thousand dollars (\$500,000) or greater, five hundred dollars (\$500).*
- (c) *If the costs of administering and maintaining the registry, providing education, and enforcing compliance change over time, the fee and tiered structure established by paragraph (b) of this subsection may be adjusted one (1) time by the DLG through the promulgation of an administrative regulation under KRS Chapter 13A. The rate, if adjusted, shall be set at a level no greater than a level that is expected to generate sufficient revenue to offset the actual cost of maintaining and administering the registry, providing education for the governing bodies and employees of special purpose governmental entities, and enforcing compliance.*
- (d) *The portion of the registration fee attributable to expenses incurred by the Auditor of Public Accounts for duties and services other than conducting audits or special examinations shall be collected by the DLG and transferred to the Auditor of Public Accounts on a quarterly basis. Prior to the transfer of funds, the Auditor of Public Accounts shall submit an invoice detailing the actual costs incurred, which shall be the amount transferred; however, the amount transferred to the Auditor of Public Accounts under the initial fee established by paragraph (b) of this section shall not exceed the annual amount agreed to between the DLG and the Auditor of Public Accounts.*
- (6) *By October 1, 2014, and on or before each October 1 thereafter, the DLG shall file an annual report with the Legislative Research Commission detailing the compliance of special purpose governmental entities with the provisions of Sections 1 to 9 of this Act. The Legislative Research Commission shall refer the report to the Interim Joint Committee on Local Government for review.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

- (1) *For fiscal periods beginning on or after July 1, 2014, requirements relating to audits and financial statements of special purpose governmental entities are as follows:*

- (a) *Every special purpose governmental entity with the higher of annual receipts from all sources or annual expenditures of less than one hundred thousand dollars (\$100,000) shall*
 - 1. *Annually prepare a financial statement; and*
 - 2. *Once every four (4) years, contract for the application of an attestation engagement as determined by the DLG, as provided in subsection (2) of this section;*
- (b) *Every special purpose governmental entity with the higher of annual receipts from all sources or annual expenditures equal to or greater than one hundred thousand dollars (\$100,000) but less than five hundred thousand dollars (\$500,000) shall*
 - 1. *Annually prepare a financial statement; and*
 - 2. *Once every four (4) years, contract for the provision of an independent audit as provided in subsection (2) of this section; and*
- (c) *Every special purpose governmental entity with the higher of annual receipts from all sources or annual expenditures equal to or greater than five hundred thousand dollars (\$500,000) shall*
 - 1. *Annually prepare a financial statement; and*
 - 2. *Be audited annually as provided in subsection (2) of this section.*
- (2) (a) *To provide for the performance of an audit or attestation engagement as provided in subsection (1)(a) to (c) of this section, the governing body of a special purpose governmental entity shall employ an independent certified public accountant or contract with the Auditor of Public Accounts to conduct the audit or attestation engagement.*
- (b) *The audit or attestation engagement shall be completed no later than twelve (12) months following the close of the fiscal year subject to the audit or the attestation engagement.*
- (c) *The special purpose governmental entity shall submit for publication on the registry the audit or attestation engagement, in the form and format required by the DLG.*
- (d) *The audit or attestation engagement shall conform to:*
 - 1. *Generally accepted governmental auditing or attestation standards, which means those standards for audits or attestations of governmental organizations, programs, activities, and functions issued by the Comptroller General of the United States;*
 - 2. *Generally accepted auditing or attestation standards, which means those standards for all audits or attestations promulgated by the American Institute of Certified Public Accountants; and*
 - 3. *Additional procedures and reporting requirements as may be required by the Auditor of Public Accounts.*
- (e) *Upon request, the Auditor of Public Accounts may review the final report and all related work papers and documents of the independent certified public accountant relating to the audit or attestation engagement.*
- (f) *If a special purpose governmental entity is required by another provision of law to audit its funds more frequently or more stringently than is required by this section, the special purpose governmental entity shall comply with the provisions of that law, and shall comply with the requirements of paragraph (c) of this subsection.*
- (g) *Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, a unit of government furnishing funds directly to a special purpose governmental entity may require additional audits at the expense of the unit of government furnishing the funds.*
- (h) *All audit reports, attestation engagement reports, and financial statements of special purpose governmental entities shall be public records.*
- (3) *The DLG shall determine which procedures conducted under attestation standards will apply to special purpose governmental entities meeting the conditions established by subsection (1)(a) of this section. The DLG may determine that additional procedures be conducted under attestation standards for specific categories of special purpose governmental entities or for specific special purpose governmental entities, as needed, to obtain the oversight and information deemed necessary by the DLG.*

- (4) *Based on the information submitted by special purpose governmental entities under Sections 2 and 9 of this Act, the DLG shall determine when each special purpose governmental entity was last audited, and shall notify the special purpose governmental entity of when each audit or attestation engagement is due under the new standards and requirements of this section.*
- (5) *The DLG may promulgate administrative regulations pursuant to KRS Chapter 13A to implement the provisions of this section.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

- (1) *The provisions of this section shall apply when any special purpose governmental entity fails to submit information or submits noncompliant information under Section 2 of this Act.*
- (2) *If a special purpose governmental entity fails to submit information in a timely manner or submits noncompliant information, the DLG shall, within thirty (30) days after the due date of the information, notify the special purpose governmental entity and the establishing entity in writing that:*
 - (a) *Either:*
 - 1. *The required information was not submitted in a timely manner; or*
 - 2. *The information submitted was noncompliant and the reason for noncompliance;*
 - (b) *The special purpose governmental entity shall have thirty (30) days from the date of the notice to submit the information; and*
 - (c) *Failure to submit compliant information:*
 - 1. *Will result in:*
 - a. *Any funds due the entity and in the possession of any agency, entity, or branch of state government being withheld by the state government entity until the report or information is submitted; and*
 - b. *Publication of a notice of noncompliance in a newspaper having general circulation in the area where the special purpose governmental entity operates; and*
 - 2. *May result in the Auditor of Public Accounts or the auditor's designee performing an audit or special examination of the special purpose governmental entity at the expense of the entity.*
- (3) *Upon the failure of a special purpose governmental entity to submit information in response to the notice sent under subsection (2) of this section, the DLG shall, within fifteen (15) days after the passage of the thirty (30) day period:*
 - (a) *Notify in writing the Auditor of Public Accounts, the establishing entity, and any entity having oversight or responsibility of the special purpose governmental entity at the state level. The notice shall include at a minimum the name, mailing address, and primary contact name for the special purpose governmental entity, as well as details about the information that is past due;*
 - (b) *Notify the Finance and Administration Cabinet that the special purpose governmental entity has failed to comply with the reporting requirements of Sections 1 to 9 of this Act, and that any funds in the possession of any agency, entity, or branch of state government shall be withheld until further notice; and*
 - (c) 1. *Cause to be published in the newspaper having general circulation in the area where the special purpose governmental entity operates a notice of noncompliance. The notice shall meet the requirements of KRS Chapter 424 and shall include:*
 - a. *Identification of the special purpose governmental entity;*
 - b. *A statement that the special purpose governmental entity failed to comply with the reporting requirements established by Section 2 of this Act;*
 - c. *The names of the board members of the special purpose governmental entity;*
 - d. *The name and contact information of the individual provided as the contact for the special purpose governmental entity; and*
 - e. *Any other information the DLG may require.*

2. *The cost of publication of the notice shall be borne by the special purpose governmental entity. If the notice includes more than one (1) special purpose governmental entity, the cost shall be divided equally among the entities included in the notice.*
- (4) *Upon receipt of notification under subsection (3)(b) of this section, the secretary of the Finance and Administration Cabinet shall, within ten (10) days after receipt of the notice, notify all state agencies, entities, and branches of state government to withhold any funds due the noncompliant special purpose governmental entity.*
- (5)
 - (a) *The Auditor of Public Accounts shall, within thirty (30) days after the receipt of information from the DLG under subsection (3)(a) of this subsection, notify in writing the special purpose governmental entity that the entity may be subject to an audit or special examination at the expense of the special purpose governmental entity.*
 - (b) *The Auditor of Public Accounts may initiate an audit or special examination of any special purpose governmental entity any time after sending the notice required by paragraph (a) of this subsection. Any audit or special examination initiated pursuant to this subsection shall be at the expense of the special purpose governmental entity.*
 - (c) *Once commenced, an audit or special examination may be completed regardless of whether the special purpose governmental entity subsequently submits the required information.*
 - (d) *The audit or special examination shall be prepared and submitted as required by Sections 2 and 3 of this Act.*
- (6) *Upon receipt of all required information from a noncompliant special purpose governmental entity, the DLG shall notify in writing the Auditor of Public Accounts, the establishing entity, and the Finance and Administration Cabinet, and the secretary of the Finance and Administration Cabinet shall notify all state agencies, entities, and branches of state government that funds withheld may once again be distributed to the special purpose governmental entity.*
- (7) *Any resident or property owner of the service area of a special purpose governmental entity may bring an action in the Circuit Court to enforce the provisions of Section 2 of this Act. The Circuit Court, in its discretion, may allow the prevailing party, other than the special purpose governmental entity, a reasonable attorney's fee and court costs, to be paid from the special purpose governmental entity's treasury.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

- (1) (a) *As used in this subsection, "entity seeking dissolution" shall mean:*
 1. *The DLG;*
 2. *If the special purpose governmental entity was established by one (1) county, or by one (1) city, the governing body of the county or city that established the special purpose governmental entity;*
 3. *If the special purpose governmental entity was established by multiple counties and cities, the governing bodies of all establishing entities; or*
 4. *If the special purpose governmental entity was established other than by an establishing entity, the governing body or bodies of the county or counties in which the special purpose governmental entity provides or provided services, or operates or operated.*
- (b) *Any special purpose governmental entity that meets at least one (1) of the following criteria may be administratively dissolved:*
 1. *The special purpose governmental entity has taken no action for two (2) or more consecutive years;*
 2. *Following a written inquiry from the entity seeking dissolution, the chair of the special purpose governmental entity either:*
 - a. *Notifies the entity seeking dissolution in writing that the special purpose governmental entity has not had a governing board, or has not had a sufficient number of governing board members to constitute a quorum for two (2) or more consecutive years; or*
 - b. *Fails to respond to the inquiry within thirty (30) days;*

3. *The special purpose governmental entity fails to register with the DLG as required by Section 9 of this Act;*
 4. *The special purpose governmental entity fails to file the information required by Section 2 of this Act for two (2) or more consecutive years; or*
 5. *The governing body of the special purpose governmental entity provides documentation to the DLG or the governing body or bodies of the establishing entity that it has unanimously adopted a resolution declaring the special purpose governmental entity inactive.*
- (c) *To begin the process of administrative dissolution, the entity seeking dissolution shall provide notification of the proposed administrative dissolution as provided in this paragraph:*
1. *The entity seeking dissolution shall:*
 - a. *Post a notice of proposed administrative dissolution on the registry established by Section 2 of this Act;*
 - b. *For administrative dissolutions under subparagraphs 3., 4., and 5. of paragraph (b) of this subsection, publish, in accordance with the provisions of KRS Chapter 424, a notice of proposed administrative dissolution, with the cost of the publication billed to the special purpose governmental entity for which administrative dissolution is sought;*
 - c. *Mail a copy of the notice to the registered contact for the special purpose governmental entity, if any; and*
 - d. *Mail a copy of the notice as follows:*
 - i. *If the dissolution is sought by the DLG, to the governing body of the establishing entity or county, and to all entities at the state level having oversight of or responsibility for special purpose governmental entity; and*
 - ii. *If the dissolution is sought by an establishing entity or county, to the DLG and any other establishing entities or counties, and to all entities at the state level having oversight of or responsibility for the special purpose governmental entity; and*
 2. *The notice shall include:*
 - a. *The name of the entity seeking dissolution, and contact information for the entity;*
 - b. *The name of the special purpose governmental entity for which dissolution is sought;*
 - c. *The statutes under which the special purpose governmental entity was organized and operating;*
 - d. *A description of the services provided and the territory of the special purpose governmental entity;*
 - e. *If there is a plan of dissolution as required by paragraph (e) of this subsection, identification of the place where the plan of dissolution may be reviewed;*
 - f. *A statement that any objections to the administrative dissolution shall be filed in writing with the entity seeking to dissolve the special purpose governmental entity within thirty (30) days after the publication date, and the address and process for submitting such objections; and*
 - g. *A statement that if no written objections are received within thirty (30) days of publication of the notice, the special purpose governmental entity shall be administratively dissolved.*
- (d) 1. *Any resident living in or owning property in the area served by the special purpose governmental entity for which dissolution is sought, who is not a member of the governing body of the special purpose governmental entity or an immediate family member of a member of the governing body of the special purpose governmental entity, may file a written objection to the dissolution with the entity seeking dissolution. The written objection shall state the specific reasons why the special purpose governmental entity shall not be dissolved, and shall*

be filed within thirty (30) days after the posting of the notice on the registry as required by paragraph (c) of this subsection.

2.
 - a. *Upon the passage of thirty (30) days with no objections filed, and satisfaction of all outstanding obligations of the special purpose governmental entity, the special purpose governmental entity shall be deemed dissolved and, if a dissolution plan was required, the entity seeking dissolution shall proceed to implement the dissolution plan.*
 - b. *Notification of dissolution shall be provided by the entity seeking dissolution to all other entities listed under paragraph (a) of this subsection. The DLG shall maintain a list of all dissolved special purpose governmental entities and the date of dissolution on the registry established by Section 2 of this Act.*
3. *If written objections are received within thirty (30) days of the publication on the registry required by paragraph (c) of this subsection, the dissolution process shall be aborted, and the process established by subsection (2) of this section shall be utilized if it is determined that dissolution should still be sought, notwithstanding any other dissolution process that may exist in the Kentucky Revised Statutes for the type of special purpose governmental entity for which dissolution is sought.*

(e) If the special purpose governmental entity for which administrative dissolution is sought:

1. *Is providing services;*
2. *Has outstanding liabilities; or*
3. *Has assets;*

the entity seeking dissolution shall, as part of the dissolution process, develop a dissolution plan that includes, as relevant, provisions addressing the continuation of services, the satisfaction of all liabilities, and the distribution of assets of the special purpose governmental entity.

(2) Any special purpose governmental entity not meeting the requirements for dissolution under subsection (1) of this section, and for which no specific dissolution provisions apply in the Kentucky Revised Statutes, may be dissolved as provided in this subsection:

(a) The dissolution of a special purpose governmental entity may be initiated upon:

1. *The affirmative vote of two-thirds (2/3) of the governing body of the special purpose governmental entity and the adoption of an ordinance by the affirmative vote or two-thirds (2/3) of the governing body of each establishing entity;*
2. *The adoption of an ordinance by an affirmative vote of two-thirds (2/3) of the governing body of each establishing entity; or*
3. *If there is no establishing entity, by the adoption of an ordinance by an affirmative vote of two-thirds (2/3) of the governing body of each county in which the special purpose governmental entity provides services or operates;*

(b) Upon initiation of a dissolution after an affirmative vote as provided in paragraph (a) of this subsection, the special purpose governmental entity for which dissolution is sought shall not assume any new obligations or duties, contract for any new debt, or levy any additional fees or taxes unless the new obligations, duties, debt, fees, or taxes are included in the dissolution plan required by paragraph (c) of this subsection. Any contract or agreement or plan for new obligations, duties, debt, fees, or taxes entered into or devised in violation of this paragraph shall be void;

(c) After voting to commence dissolution of a special purpose governmental entity, the governing body or bodies initiating the dissolution shall:

1. *Develop a dissolution plan which, if adopted by an establishing entity shall be by ordinance, which shall include but not be limited to:*
 - a. *A description of how the necessary governmental services provided by the special purpose governmental entity will be provided upon dissolution of the entity or a statement that the services are no longer needed;*

- b. *A plan for the satisfaction of any outstanding obligations of the special purpose governmental entity, including the continuation of any tax levies or fee payments necessary to meet the outstanding obligations;*
- c. *Assurances from any organization or entity that will be assuming responsibility for services provided by the special purpose governmental entity, or that will assume the obligations of the special purpose governmental entity, that the organization or entity will, in fact, provide the services or assume the obligations;*
- d. *A plan for the orderly transfer of all assets of the special purpose governmental entity in a manner that will continue to benefit those to whom services were provided by the special purpose governmental entity;*
- e. *A date upon which final dissolution of the special purpose governmental entity shall occur; and*
- f. *Any other information the governing body wishes to include.*

The dissolution plan shall be available for public review at least thirty (30) days prior to the public hearing required by subparagraph 2. of this paragraph;

- 2. *Hold a public hearing in each county and city that is participating in the dissolution to present the proposed dissolution plan and receive feedback from the public. The time and location of the hearing, as well as the location where a copy of the dissolution plan may be reviewed by the public prior to the hearing, shall be advertised as provided in KRS 424.130, and shall be posted on the registry established by Section 2 of this Act. The hearing shall be held not less than fifteen (15) days, nor more than thirty (30) days after the publication of the notice in the newspaper;*
- 3. *Send a copy of the notice required by subparagraph 2. of this paragraph to the DLG and to any state entity with oversight authority of the special purpose governmental entity;*
- 4. *If the dissolution plan is amended after the public hearing, make the amended dissolution plan available for public inspection for at least fifteen (15) days prior to the final vote of the governing body under subparagraph 5. of this paragraph;*
- 5. *If the special purpose governmental entity is utility as defined in KRS 278.010(3), obtain approval from the public service commission pursuant to KRS 278.020(5); and*
- 6. *Within sixty (60) days after the date of the public hearing, finally approve or disapprove the dissolution of the special purpose governmental entity and the dissolution plan. Approval shall require:*
 - a. *If initiated by the governing board of the special purpose governmental entity, the affirmative vote of two-thirds (2/3) of the members of the governing body of the special purpose governmental entity and the adoption of an ordinance by two-thirds (2/3) of the members of the governing body of each establishing entity;*
 - b. *The adoption of an ordinance by two-thirds (2/3) of the members of the governing body of each establishing entity; or*
 - c. *If there is no establishing entity, by the adoption of an ordinance by two-thirds (2/3) of the members of the governing body of each county in which the special purpose governmental entity provided services or operated.*
- (d) *The governing body or bodies shall notify the DLG of the outcome the vote or votes taken pursuant to subparagraph 6. of paragraph (c) of this subsection; and*
- (e) *Notwithstanding any other provision of this section, the dissolution of a special purpose governmental entity shall not be final until all obligations of the special purpose governmental entity have been satisfied or have been assumed by another entity.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

The DLG shall provide, or shall arrange for the provision of, educational materials and programs for the governing bodies and employees of special purpose governmental entities to inform them of their duties and responsibilities under the provisions of this chapter and issues related thereto. In developing the materials and

programs, the DLG shall consult with public entities as defined in KRS 65.310. The DLG may promulgate administrative regulations under KRS Chapter 13A to implement this section.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

- (1) (a) *The board, officers, and employees of each special purpose governmental entity shall be subject to the code of ethics of the establishing entity in which the special purpose governmental entity's principal business office is located.*
- (b) *If the principal business office is located in more than one (1) establishing entity, the board of the special purpose governmental entity shall select one (1) of the applicable codes of ethics that will apply.*
- (c) *If there is no establishing entity, the board, officers, and employees of the special purpose governmental entity shall be subject to the code of ethics of the county in which the special purpose governmental entity's principal business office is located.*
- (2) *The governing body of a special purpose governmental entity may adopt ethics provisions that are more stringent than those of the establishing entity in which its principal business office is located. If more stringent provisions are adopted, the governing body of the special purpose governmental entity shall, within twenty-one (21) days of the adoption of the provisions, deliver a copy of the provisions to the DLG and the establishing entity. Any subsequent amendments shall also be delivered to the DLG and the establishing entity within twenty-one (21) days of adoption. The DLG shall include any documents provided under this section as part of the public records and lists maintained under subsection (5)(a) of Section 10 of this Act.*

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

- (1) *The governing body of each special purpose governmental entity shall annually adopt a budget conforming with the requirements established under Section 2 of this Act prior to the start of the fiscal year to which the budget applies. No moneys shall be expended from any source except as provided in the adopted budget.*
- (2) *In lieu of the publication requirements of KRS 424.220, but in compliance with other applicable provisions of KRS Chapter 424, each special purpose governmental entity shall, within sixty (60) days after the close of each fiscal year, publish the location where the adopted budget, financial statements, and most recent audit or attestation engagement reports may be examined by the public.*

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

- (1) (a) *To establish a complete list of all special purpose governmental entities operating in Kentucky on the effective date of this Act so that the registry established pursuant to Section 2 of this Act will be comprehensive, every existing special purpose governmental entity shall register with the DLG as provided in this subsection.*
- (b) *Registration shall occur prior to December 31, 2013, and shall be in the form and format required by the DLG, provided that in addition to the information required by the DLG, all special purpose governmental entities shall report to the DLG the date the last independent audit of the entity was conducted.*
- (c) *Between the effective date of this Act and December 31, 2013, the DLG, with assistance from the area development districts created under KRS 147A.050, public entities as defined in KRS 65.310, and the Auditor of Public Accounts, shall notify all special purpose governmental entities of which it is aware of the registration requirement established by this subsection, and of the consequences of failing to register in a timely manner.*
- (2) *The governing body of any special purpose governmental entity established on or after January 1, 2014 shall, within fifteen (15) days of the establishment of the entity, file with the DLG the information required by subsection (2)(a)1. of Section 2 of this Act and any other information required by the DLG.*
- (3) *Notwithstanding any other provision of the Kentucky Revised Statutes, any special purpose governmental entity that fails to provide information to the DLG as required under this section shall be:*
 - (a) *Subject to administrative dissolution as provided in Section 5 of this Act; and*
 - (b) *Prohibited from levying or collecting any tax, fee, assessment, or charge beginning January 1, 2014, through the date the entity registers with the DLG.*

To enforce paragraph (b) of this subsection, any resident or property owner of the service area of a special purpose governmental entity may bring an action in the Circuit Court. The Circuit Court, in its discretion, may allow the prevailing party, other than the special purpose governmental entity, a reasonable attorney's fee and court costs, to be paid from the special purpose governmental entity's treasury.

➔Section 10. KRS 65.003 is amended to read as follows:

- (1) (a) The governing body of each city, county, urban-county, consolidated local government, and charter county, shall adopt, by ordinance, a code of ethics which shall apply to all elected officials of the city, county, urban-county, consolidated local government, or charter county, and to appointed officials and employees of the city, county, urban-county, consolidated local government, or charter county government, or agencies created jointly, as specified in the code of ethics. The elected officials of a city, county, or consolidated local government to which a code of ethics shall apply include the mayor, county judge/executive, members of the governing body, county clerk, county attorney, sheriff, jailer, coroner, surveyor, and constable but do not include members of any school board. Agencies created jointly may include planning or administrative commissions or boards. Candidates for the local government elective offices specified in this subsection shall comply with the annual financial disclosure statement filing requirements contained in the code of ethics.
- (b) ***The boards, officers, and employees of special purpose governmental entities shall be subject to a code of ethics as provided in Section 7 of this Act. As used in this section, special purpose governmental entity have the same meaning as in Section 1 of this Act.***
- (2) Any city, county, or consolidated local government may enter into a memorandum of agreement or an interlocal agreement with one (1) or more other cities, counties, or consolidated local governments for joint adoption of a code of ethics which shall apply to all elected officials of the cities, counties, or consolidated local governments, and to appointed officials and employees as specified by each of the cities, counties, or consolidated local governments which enters into the agreement. Interlocal agreements shall be executed pursuant to the Interlocal Cooperation Act in KRS 65.210 to 65.300. The interlocal agreement or memorandum of agreement may provide for but shall not be limited to:
 - (a) The provision of administrative services relating to the implementation of a code of ethics;
 - (b) The creation of a regional ethics board which serves independently to provide advice to member governments and their officials and provides for the enforcement of locally adopted codes of ethics; and
 - (c) Contracting by a memorandum of agreement with an area development district for the provision of administrative services relating to the implementation of a code of ethics.

Candidates for the city, county, or consolidated local government elective offices specified in this subsection shall comply with the annual financial disclosure statement filing requirements contained in the code of ethics.

- (3) Each code of ethics adopted as provided by subsection (1) or (2) of this section, or amended as provided by subsection (4) of this section, shall include but not be limited to provisions which set forth:
 - (a) Standards of conduct for elected and appointed officials and employees;
 - (b) Requirements for creation of financial disclosure statements, which shall be filed annually by all candidates for the city, county, or consolidated local government elective offices specified in subsection (1) of this section, elected officials of each city, county, or consolidated local government, and other officials or employees of the city, county, or consolidated local government, as specified in the code of ethics, and which shall be filed with the person or group responsible for enforcement of the code of ethics, provided that:
 1. Nonpaid members of jointly created agencies may be exempted from filing financial disclosure statements; ***and***
 2. ***Board members, officers, and employees of special purpose governmental entities shall not be required to file financial disclosure statements for their service or employment with the special purpose governmental entity, unless the special purpose governmental entity adopts more stringent requirements under Section 7 of this Act that require the filing of financial disclosure statements.***
 - (c) A policy on the employment of members of the families of officials or employees of the city, county, or consolidated local government, as specified in the code of ethics;

- (d) The designation of a person or group who shall be responsible for enforcement of the code of ethics, including maintenance of financial disclosure statements, all of which shall be available for public inspection, receipt of complaints alleging possible violations of the code of ethics, issuance of opinions in response to inquiries relating to the code of ethics, investigation of possible violations of the code of ethics, and imposition of penalties provided in the code of ethics.
- (4) The code of ethics ordinance adopted by a city, county, or consolidated local government may be amended but shall not be repealed.
- (5) (a) Within twenty-one (21) days of the adoption of the code of ethics required by this section, each city, county, or consolidated local government shall deliver a copy of the ordinance by which the code was adopted and proof of publication in accordance with KRS Chapter 424 to the Department for Local Government. The Department for Local Government shall maintain the ordinances as public records and shall maintain a list of city, county, or consolidated local governments which have adopted a code of ethics and a list of those which have not adopted a code of ethics.
- (b) Within twenty-one (21) days of the amendment of a code of ethics required by this section, each city, county, or consolidated local government shall:
1. Deliver a copy of the ordinance by which the code was amended and proof of publication in accordance with KRS Chapter 424 to the Department for Local Government, which shall maintain the amendment with the ordinance by which the code was adopted; **and**
 2. ***Deliver a copy of the ordinance by which the code was amended to the governing body of each special purpose governmental entity that follows that establishing entity's code of ethics pursuant to Section 7 of this Act.***
- (c) For ordinances adopting or amending a code of ethics under this section, cities of the first class and consolidated local governments shall comply with the publication requirements of KRS 83A.060(9), notwithstanding the exception contained in that statute.
- (6) If a city, county, or consolidated local government fails to comply with the requirements of this section, the Department for Local Government shall notify all state agencies, including area development districts, which deliver services or payments of money from the Commonwealth to the city, county, or consolidated local government. Those agencies shall suspend delivery of all services or payments to the city, county, or consolidated local government which fails to comply with the requirements of this section. The Department for Local Government shall immediately notify those same agencies when the city, county, or consolidated local government is in compliance with the requirements of this section, and those agencies shall reinstate the delivery of services or payments to the city, county, or consolidated local government.

➔Section 11. KRS 65.005 is amended to read as follows:

- (1) ***The provisions of this section shall apply prior to July 1, 2014. On and after July 1, 2014, the provisions of this section shall no longer apply; instead the provisions of Sections 1 to 9 of this Act shall apply. Special districts shall cooperate with the Department for Local Government and the Auditor of Public Accounts to ensure an orderly transition from the reporting requirements of this section to the reporting requirements of Sections 1 to 9 of this Act. Notwithstanding the dates established by this subsection, the provisions of this section and Sections 1 to 9 of this Act shall be administered such that the registration required by subsection (1) of Section 9 of this Act occurs as required by that subsection, and there is no gap in reporting by entities subject to this section and Sections 1 to 9 of this Act as the transition occurs.***
- (2) (a) "Special district" means any agency, authority, or political subdivision of the state which exercises less than statewide jurisdiction and which is organized for the purpose of performing governmental or other prescribed functions within limited boundaries. It includes all political subdivisions of the state except a city, a county, or a school district.
- (b) "Governing body" means the body possessing legislative authority in a city, county, or special district.
- (3)~~(2)~~ No special district shall be legally created without sending notification of its existence in writing to the clerk of the county within the jurisdiction of which its principal office shall be located. This requirement for notification is in addition to all other provisions of existing law providing for the creation of special districts. The notification shall contain the names and addresses of the members of the governing body of the district, the name and address of its chief executive officer, a specific reference to the statute or statutes under which it was created, and a brief description of its service area and activities. The clerk shall record the original and forward a copy of the notification to the state local finance officer and the state local debt officer, Department

for Local Government. The clerk shall be paid a fee of two dollars (\$2) by the district for recording and mailing the notification.

- ~~(4)(3)~~ The governing body of any existing special district shall submit notification as required in subsection ~~(3)(2)~~ of this section within thirty (30) days after June 16, 1966, and the governing body of a newly created special district shall submit the required notification at or before its first meeting.

➔Section 12. KRS 65.065 is amended to read as follows:

- (1) *The provisions of this section shall apply for fiscal periods ending prior to July 1, 2014. For fiscal periods beginning on or after July 1, 2014, the provisions of this section shall no longer apply; instead, the provisions of Sections 1 to 9 of this Act shall apply. Districts shall cooperate with the Department for Local Government and the Auditor of Public Accounts to ensure an orderly transition from the reporting requirements of this section to the reporting requirements of Sections 1 to 9 of this Act. Notwithstanding the dates established by this subsection, the provisions of this section and Sections 1 to 9 of this Act shall be administered such that the registration required by subsection (1) of Section 9 of this Act occurs as required by that subsection, and there is no gap in reporting by entities subject to this section and Sections 1 to 9 of this Act as the transition occurs.*
- (2) The governing body of each district shall annually prepare a budget and, as appropriate, shall classify budget units in the same fashion as county budgets are classified in accordance with KRS 68.240(2) to (5). The state local finance officer shall prepare standard budget forms for district use and shall furnish them to county clerks for distribution to district officers. No moneys shall be expended from any funds or any sources, except in accordance with the budget which has been filed with the fiscal court to be available for public inspection. No budget of a district shall become effective until filed with the fiscal court of the county in which the district is located for submission to the Department for Local Government. For those districts with multicounty jurisdictions, the district shall file a copy with each of the fiscal courts within the jurisdiction of the district for their review. If the budget is not filed with the fiscal court at least thirty (30) days prior to the start of the district fiscal year, the fiscal court shall immediately notify the county attorney. The county attorney shall then notify the governing board of the special district of the noncompliance and then proceed with any steps necessary to prevent the expenditure of funds by the special district until the district is in compliance.
- ~~(3)(2)~~ The governing body of each district which for the year in question receives from all sources or expends for all purposes less than seven hundred fifty thousand dollars (\$750,000) shall annually prepare a financial statement, except that once every four (4) years the district's governing body shall provide for the performance of an audit as provided in subsection ~~(5)(4)~~ of this section.
- ~~(4)(3)~~ The governing body of each district which for the year in question receives from all sources or expends for all purposes seven hundred fifty thousand dollars (\$750,000) or more shall provide for the performance of an annual audit as provided in subsection ~~(5)(4)~~ of this section.
- ~~(5)(4)~~ To provide for the performance of an audit, the governing body of a district shall employ an independent certified public accountant or contract with the Auditor of Public Accounts to perform an audit of the funds in the district budget. The audit shall conform to:
 - (a) Generally accepted governmental auditing standards, which means those standards for audits of governmental organizations, programs, activities, and functions issued by the Comptroller General of the United States; and
 - (b) Additional procedures and reporting requirements as may be required by the Auditor of Public Accounts. A unit of government furnishing funds directly to a district may require additional audits at its own expense. Upon request, the State Auditor of Public Accounts may review the final report and all related work papers and documents of the independent certified public accountant relating to the audit. If a district is required by law to audit its funds more often than is required by this section, it shall perform those audits and may submit them in lieu of the requirements of this section, if the audits meet the requirements of this subsection.
- ~~(6)(5)~~ The provisions of subsection ~~(3)(2)~~ of this section shall not apply to any district that is required by law to annually submit a financial report to an agency of state government. The districts shall annually submit a copy of their financial report to the county judge/executive and to the state local finance officer and once every four (4) years provide for the performance of an audit as provided in subsection ~~(5)(4)~~ of this section.
- ~~(7)(6)~~ Any resident of the district may bring an action in the Circuit Court to enforce the provisions of this section. The Circuit Court shall hear the action and, on a finding that the governing body of the district has

violated the provisions of this section, shall order the district to comply with the provisions. The Circuit Court, in its discretion, may allow the prevailing party, other than the district, a reasonable attorney's fee and court costs, to be paid from the district's treasury.

➔Section 13. KRS 65.070 is amended to read as follows:

- (1) ***The provisions of this section shall apply for fiscal periods ending prior to July 1, 2014. For fiscal periods beginning on and after July 1, 2014, the provisions of this section shall no longer apply; instead, the provisions of Sections 1 to 9 of this Act shall apply. Districts shall cooperate with the Department for Local Government and the Auditor of Public Accounts to ensure an orderly transition from the reporting requirements of this section to the reporting requirements of Sections 1 to 9 of this Act. Notwithstanding the dates established by this subsection, the provisions of this section and Sections 1 to 9 of this Act shall be administered such that the registration required by subsection (1) of Section 9 of this Act occurs as required by that subsection, and there is no gap in reporting by entities subject to this section and Sections 1 to 9 of this Act as the transition occurs.***
- (2) Within sixty (60) days following the close of the fiscal year, the district shall:
 - (a) File with the county clerk of each county with territory in the district a certification showing any of the following information that has changed since the last filing by the district:
 1. The name of the district;
 2. A map or general description of its service area;
 3. The statutory authority under which it was created; and
 4. The names, addresses, and the date of expiration of the terms of office of the members of its governing body and chief executive officer;
 - (b) Submit for review a copy of the summary financial statement with the fiscal court of each county with territory in the district; and
 - (c) Publish, in lieu of the provisions of KRS 424.220, but in compliance with other applicable provisions of KRS Chapter 424, the names and addresses of the members of its governing body and chief executive officer, and either a summary financial statement, which includes the location of supporting documents, or the location of district financial records which may be examined by the public.
- ~~(3)(2)~~ The district shall submit for review a copy of the audit with the fiscal court of each county with territory in the district. The submission shall be made within thirty (30) days of the district's receipt of the completed audit.
- ~~(4)(3)~~ The Department for Local Government shall prepare and furnish to county clerks standard reporting forms which districts may use to comply with the provisions of this section.
- ~~(5)(4)~~ Any resident of the district may bring an action in the Circuit Court to enforce the provisions of this section. The Circuit Court shall hear the action and, on a finding that the governing body of the district has violated the provisions of this section, shall order the district to comply with its provisions. The Circuit Court, in its discretion, may allow the prevailing party, other than the district, a reasonable attorney's fee and court costs, to be paid from the district's treasury.

➔Section 14. KRS 65.117 is amended to read as follows:

- (1) No city, county, urban-county, consolidated local government, charter county, ***or special purpose governmental entity as defined in Section 1 of this Act***~~district, or taxing district~~ shall enter into any financing obligation of any nature, whether evidenced by note pursuant to KRS 65.7701 to 65.7721 or otherwise, by lease pursuant to KRS 65.940 to 65.956, under which the lease price exceeds two hundred thousand dollars (\$200,000), by bond issuance pursuant to KRS Chapter 66, or any long-term debt obligation of any sort without first notifying the state local debt officer in writing. The Department for Local Government may promulgate administrative regulations to develop the forms for the notification that shall contain the relevant financial terms of the obligation, including the interest rates or method of determining rates, the date of issue, the maturity dates, term of obligation, renewal periods, and the trustee or paying agent, if any. No approval of the state local debt officer shall be required, unless otherwise required by law.
- (2) Any financing obligation entered into prior to July 15, 2008, shall be considered in compliance if that notification is provided to the state local debt officer no later than one (1) year after July 15, 2008.

➔Section 15. KRS 65.900 is amended to read as follows:

As used in KRS 65.905 to 65.925, unless the context requires otherwise:

- (1) "City" means every city organized and governed under the mayor-alderman form of government pursuant to KRS Chapter 83, every city organized and governed under the mayor-council form of government pursuant to KRS Chapter 83A, every city organized and governed under the commission form of government pursuant to KRS Chapter 83A, every city organized and governed under the city manager form of government pursuant to KRS Chapter 83A, every consolidated local government organized and governed under the consolidated local government form of government pursuant to KRS Chapter 67C, and every urban-county government organized and governed under the urban-county form of government pursuant to KRS Chapter 67A.
- (2) "County" means any of Kentucky's one hundred twenty (120) counties.
- (3) "Special district" means any district with ad valorem taxing powers including, but not limited to, those specified in the following KRS statutes: KRS 75.010 to 75.260, KRS 76.274 to 76.279, KRS 104.450 to 104.680, KRS 107.310 to 107.500, KRS 108.080 to 108.180, KRS 109.115 to 109.190, KRS 147.610 to 147.710, KRS 164.605 to 164.675, KRS 173.450 to 173.650, KRS 173.710 to 173.800, KRS 179.700 to 179.990, KRS 210.370 to 210.480, KRS 212.720 to 212.760, KRS 216.310 to 216.360, KRS 220.010 to 220.613, KRS 262.010 to 262.660, KRS 262.700 to 262.990, KRS 266.010 to 266.990, KRS 268.010 to 268.990, and KRS 269.100 to 269.270.
- (4) "Local government" includes:
 - (a) *For fiscal periods ending prior to July 1, 2014, cities, counties, consolidated local governments, urban-county governments, and special districts; and*
 - (b) *For fiscal periods beginning on and after July 1, 2014, cities, counties, consolidated local governments, and urban-county governments*~~the terms city, county, consolidated local government, urban-county government, and special district as defined in this section~~.
- (5) "Lease-purchase agreement" means an agreement to lease or to lease and purchase major items of property, equipment, or services estimated to cost fifty thousand dollars (\$50,000) or more, and two hundred thousand dollars (\$200,000) or more for the construction or installation of a building or a utility.

➔Section 16. KRS 65.905 is amended to read as follows:

- (1) Except as otherwise provided in subsection (2) of this section, each local government~~as defined in KRS 65.900~~ shall annually, after the close of the fiscal year, complete a uniform financial information report. The report shall be submitted to the Department for Local Government by May 1 immediately following the close of the fiscal year. The Department for Local Government shall immediately send one (1) copy of the uniform financial information report to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975.
- (2) The final quarterly report filed by a county within fifteen (15) days after the end of the last quarter of the fiscal year, in accordance with KRS 68.360(2), shall be deemed the uniform financial information report for that county for purposes of compliance with KRS 65.900 to 65.925.
- (3)
 - (a)
 1. Each city may have the uniform financial information report completed by its selected auditor as part of the terms and conditions of the written agreement between the city and the auditor in accordance with KRS 91A.040.
 2. Each county may have the uniform financial information report completed by its auditor selected in accordance with KRS 43.070 or 64.810.
 3. *For fiscal periods ending prior to July 1, 2014, each special district may have the uniform financial information report completed by its auditor selected in accordance with KRS 65.065. For fiscal periods beginning on and after July 1, 2014, the provisions of this section shall no longer apply to special districts. Instead, the provisions of Sections 1 to 9 of this Act shall apply. Notwithstanding the dates established by this subparagraph, the provisions of this section and Sections 1 to 9 of this Act shall be administered such that the registration required by subsection (1) of Section 9 of this Act occurs as required by that subsection, and there is no gap in reporting by entities subject to this section and Sections 1 to 9 of this Act as the transition occurs.*

- (b) If a city does not use the auditor to complete the uniform financial information report, it shall by order designate an elected or nonelected official to be responsible for annually completing the report and submitting it to the Department for Local Government.
 - (c) If a local government has any agency, board, or commission that receives any funding from the local government, but conducts its operations on an autonomous or semi-autonomous basis, the local government shall note on the uniform financial information report the name of the agency, board, or commission; the mailing address of the agency, board, or commission; and the dollar amount annually appropriated by the local government to the agency, board, or commission.
- (4) The Department for Local Government shall by administrative regulation prescribe the format of the uniform financial information report, and shall attempt to coordinate and combine efforts with the United States Bureau of the Census in the development of the format of the uniform financial information report so that a single report will meet the needs of both agencies and fulfill the requirements of KRS 65.900 to 65.925. Regardless of any agreement between the Department for Local Government and the United States Bureau of the Census, the Department for Local Government shall maintain responsibility for assuring that a uniform financial information report is distributed to each local government as soon as practicable after the close of each fiscal year, but in no event later than one hundred twenty (120) days prior to the required submission date of May 1.
- (5) The Department for Local Government shall use the uniform financial information report to replace as many financial information forms as possible that local governments are currently required to complete and submit to that office for use by either the state or federal governments, by consolidating the required information into the uniform report.

➔Section 17. KRS 39F.160 is amended to read as follows:

- (1) A rescue squad taxing district may be created by the fiscal court pursuant to KRS 65.182 or 65.188.
- (2) The ad valorem tax that may be imposed for the maintenance and operation of the district shall not exceed ten cents (\$0.10) for each one hundred dollars (\$100) of the assessed valuation of all property in the district.
- (3) Upon the creation of a district, the district so established shall be a taxing district within the meaning of Section 157 of the Constitution of Kentucky.
- (4) The district ad valorem taxes shall be collected by the sheriff in the same manner as county ad valorem taxes. The sheriff shall be entitled to a fee of four percent (4%) of the amount of the tax collected for the district.
- (5) The affairs of the district shall be controlled by a board of directors appointed by the county judge/executive, the mayor of an urban-county, or the chief executive of another local government with the approval of the legislative body of that jurisdiction.
 - (a) If the district consists of one (1) county, three (3) directors shall be appointed;
 - (b) If the district consists of two (2) counties, the county judge/executive of the county having the greater portion of the population of the district shall appoint two (2) directors and the county judge/executive of the other county shall appoint the third director;
 - (c) If the district consists of more than two (2) counties, the county judge/executive of the county having the greatest portion of the population of the district shall appoint two (2) directors and the county judge/executive of the remaining counties comprising the district shall each appoint one (1) director;
 - (d) The legislative body of each city of the first three (3) classes, or if there is no such class of city, the city of the highest class located within the district shall appoint one (1) additional director.
- (6) The board of directors shall be appointed within thirty (30) days after the establishment of the district. Each board member shall reside within the county or city for which appointed. Directors shall be appointed for terms of two (2) years each, except that initially the appointing authority shall appoint a minority of the board members for one (1) year terms. Subsequent terms shall all be for two (2) years. Any vacancies shall be filled by the appointing authority for the unexpired term.
- (7) A majority of the membership of the board shall constitute a quorum.
- (8) A member of the board of directors may be removed from office as provided by KRS 65.007.
- (9) The board of directors shall provide rescue service to inhabitants of the district and may:
 - (a) Purchase vehicles and all other necessary equipment and employ trained personnel who meet all federal and state requirements;

- (b) Adopt rules and regulations necessary to effectively and efficiently provide rescue service for the district. Rules and regulations shall be consistent with the provisions of this chapter;
 - (c) Employ persons to administer the daily operations of the rescue service;
 - (d) Compensate employees of the district at a rate determined by the board;
 - (e) Apply for and receive available funds from the state and federal government for the purpose of maintaining or improving the rescue service of the district; and
 - (f) Acquire by bequest, gift, grant, or purchase any real or personal property necessary to provide rescue service.
- (10) A district shall be eligible for grants pursuant to KRS 39F.130 and workers' compensation coverage pursuant to KRS 39F.170.
- (11) Tax revenues of a rescue squad taxing district shall be used only for rescue services as described in this chapter. Tax revenues of a rescue squad taxing district shall be distributed among all rescue squads in the district in proportion to the percentage of the district's population served by each squad.
- (12) *The board of directors shall comply with the provisions of Sections 1 to 9 of this Act.*

➔Section 18. KRS 43.070 is amended to read as follows:

- (1) (a) To determine whether any unauthorized, illegal, irregular, or unsafe handling or expenditure of revenue or other improper practice of financial administration has occurred and to assure that all proper items have been duly charged, taxed, and reported, the Auditor shall audit annually:
- 1. ~~{(a)}~~ The funds contained in each county's budget; and
 - 2. ~~{(b)}~~ The books, accounts, and papers of all county clerks and sheriffs.
- (b) *The Auditor shall not conduct an audit pursuant to this subsection if the fiscal court or the elected official notifies the Auditor that a certified public accountant has been employed to audit the books, accounts, and papers of the county or the fee office, in accordance with KRS 64.810.*
- (2) ~~{(a)}~~ The Auditor may audit:
- (a) The books, accounts and papers of all county judges/executive, county attorneys, coroners and constables; and
 - (b) *The books, accounts, papers, and performance of all special purpose governmental entities as defined in Section 1 of this Act. The expense of any audit or examination performed pursuant to this paragraph shall be borne by the entity audited or examined.*
- ~~{(b)}~~ ~~The Auditor shall not conduct an audit pursuant to subsection (1)(a) or (b) of this section if the fiscal court or the elected official notifies the Auditor that a certified public accountant has been employed to audit the books, accounts and papers of the county or the fee office, in accordance with KRS 64.810.~~
- (3) The county shall bear one-half (1/2) of the actual expense of the audit conducted pursuant to subsection (1)(a) ~~I.~~ of this section and shall bear the total actual expense of the audit conducted pursuant to subsections (1)(a) ~~2.~~ ~~{(b)}~~ and (2)(a) of this section. No county shall be required to bear the expense for more than one (1) audit of the same fund or office annually pursuant to subsection (1)(a) ~~I.~~ or ~~2.~~ ~~{(b)}~~ of this section except as provided ~~for~~ in KRS 64.810(4).
- (4) Within a reasonable time after the completion and distribution of the audit reports authorized by subsection (1) of this section, the Auditor of Public Accounts shall bill the county for the expenses incurred pursuant to subsection (3) of this section. A copy of this bill shall be forwarded to the secretary of the Finance and Administration Cabinet. Should the fiscal court within sixty (60) days following receipt of said bill determine the charge to be excessive or otherwise improper it shall submit its objection to the secretary of the Finance and Administration Cabinet and to the State Treasurer for resolution of the controversy in accordance with subsection (5) of this section. If the amount billed has not been paid within sixty (60) days from date of billing, and no objection has been filed, the Auditor shall notify the secretary of the Finance and Administration Cabinet and the secretary of revenue who shall cause said amount to be deducted from the next payment or return of moneys provided by KRS 47.110 by the state to the county or counties. Deductions shall continue until the total amount due the Auditor's office has been paid. All moneys received pursuant to this section shall be credited to the trust and agency account of the Auditor of Public Accounts. When an objection to the bill has been filed with the secretary of the Finance and Administration Cabinet and the State Treasurer in

accordance with subsection (5) of this section the amount found to be equitable and just shall become payable immediately upon the entry of the final decision.

- (5) Any controversy over the amount of the bill for the actual expenses incurred shall be submitted by the fiscal court to the secretary of the Finance and Administration Cabinet and the State Treasurer for a decision as to the proper amount. In the event that these two (2) arbitrators fail to agree, then the controversy shall be submitted to the Attorney General, whose decision shall be final.

➔Section 19. KRS 43.075 is amended to read as follows:

- (1) The Auditor shall develop uniform standards and procedures for conducting, and uniform formats for reporting, all audits of county budgets and the accounts, books and papers of elected county or district officials performed under KRS 43.070(1)(a)~~I.~~ and ~~2.{(b)}~~ or (I)~~{(2)}~~(b) or 64.810. The Auditor shall promulgate the uniform standards and procedures by administrative regulation according to KRS Chapter 13A.
- (2) Upon and after July 15, 1986, no person shall conduct an audit under KRS 43.070(1)(a)~~I.~~ and ~~2.{(b)}~~ or (I)~~{(2)}~~(b) or 64.810 which does not comply with the standards and procedures promulgated by the state Auditor of Public Accounts under subsection (1) of this section.
- (3) The uniform audit standards and procedures promulgated by the Auditor shall include but need not be limited to the requirement that each person performing an audit shall determine whether the fiscal court or county official is complying with the requirements of the uniform system of accounts adopted under KRS 68.210, whether there is accurate recording of receipts by source and expenditures by payee, and whether or not each official is complying with all other legal requirements relating to the management of public funds by his office, including all publication requirements. The requirements for uniform formats for audit reports shall require that the format of reports for each category of county or district office shall be uniform.
- (4) The Auditor shall make informational copies of the regulations containing the audit standards and procedures available to interested persons at their request, and may charge a reasonable fee for such copies.

➔SECTION 20. A NEW SECTION OF KRS 65.180 TO 65.192 IS CREATED TO READ AS FOLLOWS:

The board of any taxing district established pursuant to KRS 65.180 to 65.192 shall comply with the provisions of Sections 1 to 9 of this Act.

➔SECTION 21. A NEW SECTION OF KRS 65.350 TO 65.375 IS CREATED TO READ AS FOLLOWS:

Any board formed and operating under KRS 65.350 to 65.375 shall comply with the provisions of Sections 1 to 9 of this Act.

➔Section 22. KRS 65.530 is amended to read as follows:

- (1) The purposes of the authority shall be to establish, maintain, operate, and expand necessary and proper riverport and river navigation facilities, and to acquire and develop property, or rights therein within the economic environs, the home county, or any county adjacent thereto, of the riverport or proposed riverport to attract directly or indirectly river-oriented industry. It shall have the duty and such powers as may be necessary or desirable to promote and develop navigation, river transportation, riverports, and riverport facilities, and to attract industrial or commercial operations to the property held as industrial parks.
- (2) The authority shall establish and fix reasonable rates, charges, and fees for the use of the riverport facilities which shall be published in a newspaper of general circulation in the county in which the riverport is located. In fixing rates, charges, or fees the authority may take into consideration, among other factors, the total capital investment of the authority, the revenue needed properly to maintain such facilities, the revenue needed properly to expand the riverport and its facilities, the portion of the facilities utilized by the licensee or contracting party and its customers, and the volume and type of business conducted. Any party aggrieved by the rates, charges, or fees may appeal from the action of the authority to the Circuit Court of the county within which the authority operates, within ninety (90) days from the date that the authority finally publishes the rates, charges, or fees and gives notice of same to the contracting party or licensee. The Circuit Court may hear evidence and determine whether or not the rates, charges, or fees are, or are not, reasonable in amount. Appeal from the judgment of the Circuit Court may be prosecuted as any other civil appeal.
- (3) The authority shall also have power, from time to time, to fix rates, charges, or fees by contract, or by publishing general rates, charges, or fees for commercial vendors, concessionaires, or other persons for the use or occupancy of riverport facilities under the terms and conditions it deems to be in the best interest of maintaining, operating, or expanding necessary riverport facilities, and the public use thereof.

- (4) The authority may acquire by contract, lease, purchase, option, gift, condemnation, or otherwise any real or personal property, or rights therein, necessary or suitable for establishing, developing, operating, or expanding riverports, riverport facilities, water navigation facilities, including spoilage areas for the disposal of materials dredged from river bottoms in an effort to improve the navigability of rivers, reserve storage areas and reserves of bulk materials utilized by the authority or any person acting as the authority's agent or licensee, and industrial parks or sites within the economic environs of the riverport or proposed riverport. The authority may erect, equip, operate, and maintain on the property buildings and equipment necessary and proper for riverport and water navigation facilities. The authority may dispose of any real or personal property, or rights therein, which in the opinion of the authority is not needed for use as riverport or water navigation facilities, or use as industrial parks or sites. The authority may lease, sell, convey, or assign its interest in land owned, optioned, or otherwise held by it to any person for the purpose of constructing and/or operating any industrial or commercial facility or for the purpose of acting as the authority's agent or licensee in effectively carrying out any of its powers and duties.
- (5) With the consent of the legislative body of the governmental unit in which the property to be condemned is located, the authority may by resolution, reciting that the property cannot be acquired by purchase or agreement and is needed for riverport, water navigation, or industrial purposes in accordance with the powers set forth in subsection (4) of this section, direct the condemnation of any property. The procedure for condemnation shall conform to the procedure set out in the Eminent Domain Act of Kentucky.
- (6) The authority may apply for, receive authorization for, establish, and operate a foreign trade zone, as permitted by 19 U.S.C. sec. 81, provided approval is obtained from the Cabinet for Economic Development.
- (7) ***The authority shall comply with the provisions of Sections 1 to 9 of this Act.***

➔SECTION 23. A NEW SECTION OF KRS 65.660 TO 65.679 IS CREATED TO READ AS FOLLOWS:

Any emergency services board established pursuant to KRS 65.660 to 65.679 shall comply with the provisions of Sections 1 to 9 of this Act.

➔Section 24. KRS 65.8925 is amended to read as follows:

- (1) By January 1, 2012, the commissioners of a regional wastewater commission established under the provisions of KRS 65.8901 to 65.8923 shall provide public access to records relating to expenditures of the commission through display of the records on a Web site.
- (2) The Web site shall be in a searchable format and shall provide financial information about expenditures not exempt under the provisions of state or federal law, including:
 - (a) The payee name;
 - (b) The category or type of expenditure;
 - (c) A description of the reason for the expenditure, if available;
 - (d) The expenditure amount;
 - (e) An electronic link to documents relating to the expenditure, if the documents are available electronically;
 - (f) The budget adopted by the commission and subsequent amendments to that budget;
 - (g) The completed annual audit results; and
 - (h) Any other information deemed relevant by the commission.
- (3) Information on the Web site shall be updated at least on a monthly basis and shall be maintained on the Web site for at least three (3) years.
- (4)
 - (a) ***The regional wastewater commission shall register with the Department for Local Government as required by Section 9 of this Act.***
 - (b) ***For fiscal periods beginning on and after July 1, 2014, the provisions of Sections 1 to 9 of this Act shall apply to regional wastewater commissions. Commissioners shall work with the Department for Local Government to provide the information required by this section through the registry established by Section 2 of this Act.***

➔SECTION 25. A NEW SECTION OF KRS 68.600 TO 68.606 IS CREATED TO READ AS FOLLOWS:

The board of trustees shall comply with the provisions of Sections 1 to 9 of this Act.

➔Section 26. KRS 74.070 is amended to read as follows:

- (1) The commission shall be a body corporate for all purposes, and may make contracts for the water district with municipalities and other persons.
- (2) All corporate powers of the water district shall be exercised by, or under the authority of, its commission. The business and affairs of the water district shall be managed under the direction and oversight of its commission.
- (3) The commission may prosecute and defend suits, hire the chief executive officer and do all acts necessary to carry on the work of the water district.
- (4) The commission may adopt bylaws not inconsistent with the provisions of this chapter.
- (5) ***The commission shall comply with the provisions of Sections 1 to 9 of this Act.***

➔Section 27. KRS 75.430 is amended to read as follows:

- (1) Each recognized and certified fire department created pursuant to KRS Chapter 273 shall ***comply with the provisions of Sections 1 to 9 of this Act***~~[send a copy of its annual report as required by KRS 14A.6-010 to the commission at the time the report is filed with the Secretary of State].~~
- (2) The governing body of each recognized and certified volunteer fire department created pursuant to KRS Chapter 273 which, for the year in question, receives from all sources or expends for all purposes less than one hundred thousand dollars (\$100,000) shall prepare a financial statement and submit it to the commission by July 31 of each year.
- (3) The governing body of each recognized and certified volunteer fire department created pursuant to KRS Chapter 273 which, for the year in question, receives from all sources or expends for all purposes one hundred thousand dollars (\$100,000) or more shall prepare a financial statement and shall employ an independent certified public accountant or contract with the Auditor of Public Accounts to perform a review of the financial statement, and shall submit the reviewed statement to the commission by July 31 of each year.

➔SECTION 28. A NEW SECTION OF KRS 76.005 TO 76.230 IS CREATED TO READ AS FOLLOWS:

The board of the district shall comply with the provisions of Sections 1 to 9 of this Act for both the district and any subdistrict established pursuant to KRS 76.241 to 76.273.

➔SECTION 29. A NEW SECTION OF KRS 76.231 TO 76.240 IS CREATED TO READ AS FOLLOWS:

The board shall comply with the provisions of Sections 1 to 9 of this Act.

➔SECTION 30. A NEW SECTION OF KRS 76.274 TO 76.279 IS CREATED TO READ AS FOLLOWS:

The board shall comply with the provisions of Sections 1 to 9 of this Act.

➔SECTION 31. A NEW SECTION OF KRS 76.295 TO 76.420 IS CREATED TO READ AS FOLLOWS:

The board shall comply with the provisions of Sections 1 to 9 of this Act.

➔Section 32. KRS 77.135 is amended to read as follows:

- (1) It shall be the duty of the secretary-treasurer of an air pollution control board of a consolidated local government and a county containing a city of the first or second class, during or before the month of May of each year, to prepare and certify to the consolidated local government or fiscal court of the county and to the legislative body of the city, for their joint consideration, a preliminary budget showing the total funds which, in the judgment of the air pollution control board, will be needed for the various departments of the district, together with a statement showing the estimated balances, if any, which will be available on July 1 for expenditure during the next fiscal year following the certification of said statement, and also indicating, as nearly as may be possible, what additional funds or assets (other than appropriations) will be or will become available for expenditure during that year. The board shall also furnish to the consolidated local government or the fiscal court and the city legislative body any other information or data available to it which the consolidated local government, the fiscal court, or the city legislative body may request.
- (2) Prior to the first day of each fiscal year, every air pollution control board shall prepare, for its own use and guidance, a financial budget setting forth the total amounts of funds available from all sources for expenditures during the said fiscal year, and also setting forth in detail the estimated expenditures of the board and the district during said fiscal year.

(3) A contingent fund for unanticipated expenditures may be established in order to provide for such contingent and unanticipated needs as may arise during the district's said fiscal year.

(4) **All air pollution control boards shall comply with the provisions of Sections 1 to 9 of this Act.**

➔Section 33. KRS 77.140 is amended to read as follows:

(1) The air pollution control board of a consolidated local government or a county containing a city of the first or second class shall install and maintain a modern and efficient system of accounting and keep financial records. The board, however, may select and use the finance department of the consolidated local government or city to do its financial accounting and make its disbursements in a manner as may be agreed upon by and between the board and the director of finance of the consolidated local government or city, which work shall be done by the finance department without compensation from the board.

(2) The Auditor of Public Accounts of the Commonwealth of Kentucky, the comptroller and inspector of the consolidated local government or the city, and the county auditor of such county, respectively, shall have access to the books and records of the board. ~~{ }~~

(3) **All air pollution control boards shall be subject to audit or attestation engagement procedures as provided in Section 3 of this Act. In addition, at any other time ~~and~~ upon the direction of the legislative body of a ~~the~~ consolidated local government ~~or the city the comptroller and inspector~~, or upon the direction of the fiscal court of the county, the county auditor ~~{ }~~ shall make an audit of the board's accounts and report back thereon.**

➔SECTION 34. A NEW SECTION OF KRS 80.262 TO 80.266 IS CREATED TO READ AS FOLLOWS:

The board of each authority shall comply with the provisions of Sections 1 to 9 of this Act.

➔SECTION 35. A NEW SECTION OF KRS 80.310 TO 80.610 IS CREATED TO READ AS FOLLOWS:

The board of each authority shall comply with the provisions of Sections 1 to 9 of this Act.

➔Section 36. KRS 91.758 is amended to read as follows:

(1) Upon the effective date of the ordinance establishing the management district, a board of directors shall be appointed and shall proceed to implement the economic improvements contained in the ordinance adopted by the legislative body.

(2) As soon as practicable after its appointment, and each year thereafter as provided by ordinance, the board of directors shall develop a plan for economic improvements within the management district and shall prepare an annual detailed budget for the costs of providing economic improvements and shall submit the budget to the legislative body for its approval.

(3) Upon approval of the annual budget, the board of directors shall:

(a) **Submit the budget to the Department for Local Government as provided in Section 2 of this Act;**

(b) Publish ~~both~~ the economic improvement plan ~~and the annual budget~~ pursuant to KRS Chapter 424; and ~~shall~~

(c) Mail by **first-class**~~first class~~ mail to each affected property owner a description of the plan, the fair basis of assessment to be utilized, the estimated cost to the property owner, and the ratio that the cost to each property owner bears to the total cost of the economic improvements.

(4) The ordinance establishing the management district shall provide a procedure for the annual collection of the assessment for the economic improvements.

(a) The board of directors may be directed to annually prepare and mail by first class mail to an owner of each parcel of real property the annual assessment, and to establish due dates and penalties and interest, if any, for delinquent payment; or

(b) The annual assessment may be collected in the same manner, at the same times, and by the office authorized by law for the collection and enforcement of general city, consolidated local government, or urban-county taxes, in which case the collector of taxes shall make regular remittances of the amounts collected to the board of directors. The penalties and interest for delinquent taxes may be applied to delinquent assessments, or separate penalties and interest may be imposed; however, no discount shall be provided for early payment.

(c) Notwithstanding the method of collection for the assessment that is adopted, any affected property owner shall be afforded the right to contest the amount of assessment or the inclusion of his or her

property. The contest shall be filed with the board of directors within thirty (30) days of the receipt of the assessment. The property owner shall have the right to appear before the board of directors and present evidence. A record shall be made of the proceedings and the board of directors shall render a written decision. The decision of the board of directors may be appealed to the Circuit Court of the county in which the city, consolidated local government, or urban-county is located.

- (5) The amount of any outstanding assessment on any property, and accrued interest and other charges, shall constitute a lien on the property. The lien shall take precedence over all other liens, whether created prior to or subsequent to the assessment, except a lien for state and county taxes, general municipal, consolidated local government, or urban-county taxes, and prior improvement assessments, and shall not be defeated or postponed by any private or judicial sale, by any mortgage, or by any error or mistake in the description of the property or in the names of the owners. No error in the proceedings of the city, consolidated local government, or urban-county legislative body or the board of directors of the management district shall exempt any property from the lien for the economic improvement assessment, or from payment thereof, or from the penalties or interest thereon, as herein provided.

➔Section 37. KRS 91.760 is amended to read as follows:

- (1) The management district shall constitute a body corporate with the power to sue and be sued, and to contract, and shall be controlled by a board of directors.
- (2) The number of members of the board of directors, their terms and qualifications, shall be established by the ordinance creating the district. All members of the board shall be property owners, representatives of property owners, or tenants within the district, except for specified ex officio members designated in the local ordinance. At least two-thirds (2/3) of the total number of board members, including ex officio members, must be property owners or the representatives of property owners within the district. The board members shall be appointed by the executive authority of the city, consolidated local government, or urban-county, with the approval of the legislative body. A board member may be removed by the executive authority for violation of the rules, regulations, or operating procedures adopted by the board of directors if the removal is recommended by a majority of the members of the board of directors.
- (3) The powers of the board of directors shall include all powers set forth in KRS 91.750 to 91.762 and the ordinance establishing the management district. The board of directors may employ or contract with persons to assist it in its responsibilities.
- (4) (a) The board of directors shall manage the fiscal affairs of the management district and shall adopt rules and regulations governing the investment and disbursement of funds.
- (b) The board of directors may borrow money on a short-term or long-term basis as required. The total aggregate amount of long-term and short-term debt which may be carried by a management district shall not exceed five hundred thousand dollars (\$500,000).
- (c) The board of directors may hold funds in the name of the management district or may designate the city, consolidated local government, or urban-county as the fiscal agent for the management district.
- (d) Money derived from the assessments imposed pursuant to KRS 91.750 to 91.762 shall be used only for economic improvements and the cost of administration of the management district and shall be used for no other purposes.
- (e) As soon as practicable after the close of the fiscal year, the board of directors shall cause an audit to be performed of all funds of the management district by a certified public accountant.
- (f) ***The board shall comply with the provisions of Sections 1 to 9 of this Act.***
- (5) In addition to receiving funds from assessments, the board of directors shall be authorized to receive grants, donations, and gifts.

➔Section 38. KRS 91A.360 is amended to read as follows:

- (1) The commission established pursuant to KRS 91A.350(2) shall be composed of seven (7) members to be appointed, in accordance with the method used to establish the commission. Members of a commission established by joint action of the local governing bodies of a county and a city or cities located therein shall be appointed, jointly, by the chief executive officers of the local governing bodies that established the commission. Members of a commission established by separate action of the local governing body of a county or a city located therein shall be appointed separately by the chief executive officer of the local governing body that established the commission. The chief executive officer of a city shall mean the mayor and the chief

executive officer of a county shall mean the county judge/executive. Appointments to a commission shall be made by the appropriate chief executive officer or officers in the following manner:

- (a) Two (2) commissioners shall be appointed from a list of three (3) or more names submitted by the local city hotel and motel association and one (1) commissioner shall be appointed from a list of three (3) or more names submitted by the local county hotel and motel association, provided that if only one (1) local hotel and motel association exists which covers both the city and county, then three (3) commissioners shall be appointed from a list of six (6) or more names submitted by it. If no formal local city or county hotel and motel association is in existence upon the establishment of a commission or upon the expiration of the term of a commissioner appointed pursuant to this subsection, then up to three (3) commissioners shall be appointed by the appropriate chief executive officer or officers from persons residing within the jurisdiction of the commission and representing local hotels or motels. A local city or county hotel and motel association shall not be required to be affiliated with the Kentucky Hotel and Motel Association to be recognized as the official local city or county hotel and motel association.
 - (b) One (1) commissioner shall be appointed from a list of three (3) or more names submitted by the local restaurant association or associations. If no formal local restaurant association or associations exist upon the establishment of a commission or upon the expiration of the term of a commissioner appointed pursuant to this subsection, then one (1) commissioner shall be appointed by the appropriate chief executive officer or officers from persons residing within the jurisdiction of the commission and representing a local restaurant. A local restaurant association or associations shall not be required to be affiliated with the Kentucky Restaurant Association to be recognized as the official local restaurant association or associations.
 - (c) One (1) commissioner shall be appointed from a list of three (3) or more names submitted by the chamber or chambers of commerce existing within those governmental units, which by joint or separate action have established the commission. If the commission is established by joint action of a county and a city or cities, then each chamber of commerce shall submit a list of three (3) names, and the chief executive officers of the participating governmental units shall jointly appoint one (1) commission member from the aggregate list. If no local chamber of commerce is in existence upon the establishment of a commission or upon the expiration of the term of a commissioner appointed pursuant to this subsection, then one (1) commissioner shall be appointed by the appropriate chief executive officer or officers from persons residing within the jurisdiction of the commission and representing local businesses.
 - (d) Two (2) commissioners shall be appointed in the following manner:
 1. By the chief executive officer of the county or city, if the commission has been established by separate action of a county or city; or
 2. One (1) each by the chief executive officer of the county and by the chief executive officer of the most populous city participating in the establishment of the commission, if the commission has been established by joint action of a county and a city or cities.
- (2) A candidate submitted for appointment to the commission, pursuant to subsection (1)(a) to (1)(c), shall be appointed by the appropriate chief executive officer or officers within thirty (30) days of the receipt of the required list or lists. Vacancies shall be filled in the same manner that original appointments are made.
 - (3) The commissioners shall be appointed for terms of three (3) years, provided, that in making the initial appointments, the appropriate chief executive officer or officers shall appoint two (2) commissioners for a term of three (3) years, two (2) commissioners for a term of two (2) years and three (3) commissioners for a term of one (1) year. There shall be no limitation on the number of terms to which a commissioner is reappointed. Subsequent appointments shall be for three (3) year terms.
 - (4) The commission shall elect from its membership a chairman and a treasurer, and may employ personnel and make contracts necessary to carry out the purpose of KRS 91A.350 to 91A.390. The contracts may include, but shall not be limited to, the procurement of promotional services, advertising services, and other services and materials relating to the promotion of tourist and convention business. Contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials, such as advertising firms, chambers of commerce, publishers, and printers.
 - (5) The books of the commission and its account as established in KRS 91A.390(2) shall be audited annually by an independent auditor who shall make a report to the commission, to the associations submitting lists of

names from which commission members are selected, to the appropriate chief executive officer or officers, to the State Auditor of Public Accounts, and to the local governing body or bodies that established the commission that was audited. A copy of the audit report shall be made available by the commission to members of the public upon request and at no charge.

- (6) A commissioner may be removed from office, by joint or separate action, of the appropriate chief executive officer or officers of the local governing body or bodies that established the commission, as provided by KRS 65.007.
- (7) ***The commission shall comply with the provisions of Sections 1 to 9 of this Act.***
 - ➔Section 39. KRS 91A.370 is amended to read as follows:
 - (1) Except in a county containing a consolidated local government, the commission established pursuant to KRS 91A.350(1) shall be composed of nine (9) members to be appointed by the mayor of the largest city in the county, the county judge/executive and the Governor of the Commonwealth.
 - (2) Except in a county containing a consolidated local government, the mayor of the largest city in the county shall appoint three (3) commissioners in the following manner:
 - (a) One (1) commissioner from a list submitted by the local city hotel and motel association;
 - (b) One (1) commissioner from a list submitted by the chamber of commerce of the largest city in the county; and
 - (c) One (1) commissioner from a list submitted by the local restaurant association or associations.
 - (3) Except in a county containing a consolidated local government, the county judge/executive shall, with the approval of the fiscal court, appoint three (3) commissioners in the following manner:
 - (a) One (1) commissioner from a list submitted by the local county hotel and motel association, provided that if only one (1) local hotel and motel association exists which covers both the city and county, then the local hotel and motel association shall submit a list to the county judge/executive;
 - (b) One (1) commissioner from a list submitted by the board of directors of the largest incorporated Thoroughbred horse racing concern in the county, which list shall contain only directors, officers, or employees of that corporation; and
 - (c) One (1) commissioner who is a resident of the county and who has an active interest in the convention and tourist industry.
 - (4) Except in a county containing a consolidated local government, the Governor shall appoint three (3) commissioners in the following manner:
 - (a) One (1) commissioner from a list submitted by the State Fair Board;
 - (b) One (1) commissioner from a list submitted by the local countywide air board; and
 - (c) One (1) commissioner shall be appointed, in those counties not containing a consolidated local government, who is a resident of the county. In those counties containing a consolidated local government, one (1) commissioner shall be appointed who is a resident of the area comprising the consolidated local government.
- (5) Vacancies shall be filled in the manner that original appointments are made.
- (6) When a list as provided in subsections (2) and (3) of this section contains less than three (3) names or when a selection from such list is not made, the appointing authority shall request in writing the submission of a new list of names.
- (7) Except in a county containing a consolidated local government, the commissioners shall be appointed for a term of three (3) years, provided that in making the initial appointments, the mayor, county judge/executive, and Governor of the Commonwealth shall each appoint one (1) commissioner for a term of one (1) year, one (1) commissioner for a term of two (2) years, and one (1) commissioner for a term of three (3) years.
- (8) Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing such city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, the commission shall have nine (9) members. Six (6) members of the commission shall be appointed by the mayor of the consolidated local government pursuant to the provisions of KRS 67C.139 for a term of three (3) years. The Governor of the Commonwealth shall appoint three (3) members of the commission for a term of three (3)

years. Incumbent members upon the establishment of the consolidated local government shall continue to serve as members of the board for the time remaining of their current term of appointment.

- (9) The commission shall elect from its membership a chairman and a treasurer, and may employ such personnel and make such contracts as are necessary to effectively carry out the purposes of KRS 91A.350 to 91A.390. Such contracts may include but shall not be limited to the procurement of promotional services, advertising services, and other services and materials relating to the promotion of tourist and convention business; provided, contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials such as advertising firms, chambers of commerce, publishers, and printers.
- (10) The books of the commission shall be audited by an independent auditor who shall make a report to the commission, to the organizations submitting names from which commission members are selected, and to the mayor of a city or a consolidated local government, the county judge/executive in counties not containing a consolidated local government, and the Governor of the Commonwealth.
- (11) Commission members appointed by the Governor shall serve at the pleasure of the Governor. Commission members appointed by the mayor of a city or a consolidated local government or the county judge/executive may be removed as provided by KRS 65.007.
- (12) ***The commission shall comply with the provisions of Sections 1 to 9 of this Act.***

➔Section 40. KRS 91A.372 is amended to read as follows:

- (1) The commission established pursuant to KRS 91A.350(2) by an urban-county government shall be composed of nine (9) members appointed by the mayor of the urban-county government in the following manner:
 - (a) Three (3) commissioners from a list submitted by the local hotel and motel association.
 - (b) One (1) commissioner from a list submitted by the local restaurant association or associations.
 - (c) One (1) commissioner from a list submitted by the local chamber of commerce.
 - (d) Four (4) commissioners who shall be residents of the urban-county.
- (2) Vacancies shall be filled in the same manner that original appointments are made.
- (3) The commissioners shall be appointed for terms of three (3) years, provided, that in making the initial appointments, the chief elective official of the urban-county shall appoint three (3) commissioners for a term of three (3) years, three (3) commissioners for a term of two (2) years and three (3) commissioners for a term of one (1) year.
- (4) The commission shall elect from its membership a chairman and a treasurer, and may employ such personnel and make such contracts as are necessary to effectively carry out the purpose of KRS 91A.350 to 91A.390. Such contracts may include but shall not be limited to the procurement of promotional services, advertising services and other services and materials relating to the promotion of tourist and convention business; provided, contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials, such as event coordinators, advertising firms, chambers of commerce, publishers and printers.
- (5) The books of the commission shall be audited by an independent auditor who shall make a report to the commission, to the organizations submitting names from which commission members are selected, and to the mayor of the urban-county government.
- (6) ***The commission shall comply with the provisions of Sections 1 to 9 of this Act.***

➔Section 41. KRS 91A.380 is amended to read as follows:

- (1) The commission established pursuant to KRS 91A.350(3) shall be composed of six (6) members from each county to be appointed by the county judge/executive, with the approval of the fiscal court, one (1) of whom shall be a member of the General Assembly in whose district the county or part of the county is located in the following manner:
 - (a) One (1) commissioner from a list of at least three (3) persons submitted by the local restaurant association or associations;
 - (b) One (1) commissioner from a list of at least three (3) persons submitted by the local chamber of commerce;

- (c) One (1) commissioner by the county judge/executive; and
 - (d) Two (2) commissioners from a list of at least six (6) persons submitted by the local hotel and motel association or associations.
- (2) Vacancies shall be filled in the same manner that original appointments are made.
 - (3) The commissioners shall be appointed for terms of three (3) years, provided that in making the initial appointments, the county judge/executive shall appoint two (2) commissioners for a term of three (3) years, two (2) commissioners for a term of two (2) years, and two (2) commissioners for a term of one (1) year.
 - (4) The commission shall elect from its membership a chairman and a treasurer, and may employ such personnel and make such contracts as are necessary to effectively carry out the purpose of KRS 91A.350 to 91A.390. Such contracts may include but shall not be limited to the procurement of promotional services, advertising services and other services and materials relating to the promotion of tourist and convention business.
 - (5) The books of the commission and its account as established in KRS 91A.390(2) shall be audited by an independent auditor who shall make a report to the commission, to the organizations submitting names from which commission members are selected, to the State Auditor of Public Accounts, and to the county judge/executive of each county. A copy of the audit report shall be made available by the commission to members of the public upon request and at no charge.
 - (6) A commissioner may be removed from office as provided by KRS 65.007.
 - (7) ***The commission shall comply with the provisions of Sections 1 to 9 of this Act.***
 - ➔Section 42. KRS 91A.570 is amended to read as follows:
 - (1) Upon the effective date of the ordinance establishing the management district, the board shall implement the economic improvement plan adopted by the legislative body.
 - (2) As soon as practicable after its appointment, and each year thereafter as provided by ordinance, the board shall develop a plan for economic improvements within the management district and shall prepare an annual detailed budget for the costs of providing economic improvements and shall submit the plan and budget to the legislative body for its approval.
 - (3) Upon approval of the economic improvement plan and annual budget, the board shall:
 - (a) ***Submit the budget to the Department for Local Government as provided in Section 2 of this Act;***
 - (b) Publish ~~both~~ pursuant to KRS Chapter 424 and ~~shall~~ mail by first -class mail to each affected property owner a description of the plan, the fair basis of assessment to be utilized, the estimated cost to the property owner, and the ratio that the cost to each property owner bears to the total cost of the economic improvements.
 - (4) The ordinance establishing the management district shall provide a procedure for the annual collection of the assessment for the economic improvements.
 - (a) The board may be directed to annually prepare and mail by first -class mail to an owner of each parcel of real property the annual assessment, and to establish due dates and penalties and interest, if any, for delinquent payment; or
 - (b) The annual assessment may be collected in the same manner, at the same times, and by the office authorized by law for the collection and enforcement of general city taxes, in which case the collector of taxes shall make regular remittances of the amounts collected to the board. The penalties and interest for delinquent taxes may be applied to delinquent assessments, or separate penalties and interest may be imposed; however, no discount shall be provided for early payment.
 - (c) Notwithstanding the method of collection for the assessment that is adopted, any affected property owner shall be afforded the right to contest the amount of assessment or the inclusion of his property. The contest shall be filed with the board within thirty (30) days of the receipt of the assessment. The property owner shall have the right to appear before the board and present evidence. A record shall be made of the proceedings and the board shall render a written decision. The decision of the board may be appealed to the Circuit Court of the county in which the city is located.
 - (5) The amount of any outstanding assessment on any property, and accrued interest and other charges, shall constitute a lien on the property. The lien shall take precedence over all other liens, whether created prior to or subsequent to the assessment, except a lien for state and county taxes, general municipal taxes, and prior

improvement assessments, and shall not be defeated or postponed by any private or judicial sale, by any mortgage, or by any error or mistake in the description of the property or in the names of the owners. No error in the proceedings of the city legislative body or the board shall exempt any property from the lien for the economic improvement assessment, or from payment thereof, or from the penalties or interest thereon, as herein provided.

➔Section 43. KRS 91A.575 is amended to read as follows:

- (1) The management district shall constitute a body corporate with the power to sue and be sued, and to contract, and shall be controlled by the board.
- (2) The number of members of the board, their terms and qualifications, shall be established by the ordinance creating the district. No fewer than a majority of the board shall be property owners within the district. The board members shall be appointed by the mayor of the city, with the approval of the legislative body.
- (3) The powers of the board shall include all powers set forth in KRS 91A.550 to 91A.580 and the ordinance establishing the management district. The board may employ or contract with persons to assist it in its responsibilities.
- (4)
 - (a) The board shall manage the fiscal affairs of the management district and shall adopt regulations governing the investment and disbursement of funds.
 - (b) The board may borrow money on a short-term basis as required.
 - (c) The board may hold funds in the name of the management district or may designate the city as the fiscal agent for the management district.
 - (d) Money derived from the assessments imposed pursuant to KRS 91A.550 to 91A.580 shall be used only for economic improvements and the cost of administration of the management district and shall be used for no other purposes.
 - (e) As soon as practicable after the close of the fiscal year, the board shall cause an audit to be performed of all funds of the management district by a certified public accountant.
 - (f) ***The board shall comply with the provisions of Sections 1 to 9 of this Act.***
- (5) In addition to receiving funds from assessments, the board shall be authorized to receive grants, donations, and gifts.

➔Section 44. KRS 96A.190 is amended to read as follows:

- (1) Each authority shall employ a ***certified***~~state-licensed~~ public accountant, or firm thereof, to make an annual audit of the authority's financial accounts and affairs, and to make a report thereof, including comments of the auditor regarding whether or not the authority is in compliance with statutory requirements and with lawful covenants and commitments made in its contract or bond proceedings. A copy of each audit report shall be filed and kept open for public inspection in the office of the secretary-treasurer of the authority, and a copy shall be provided to the clerk, secretary or other appropriate office of record of each public body which may have participated in the creation and organization of the authority, or in the subsequent expansion thereof.
- (2) ***Each authority shall comply with the provisions of Sections 1 to 9 of this Act.***

➔Section 45. KRS 97.095 is amended to read as follows:

- (1) For the purpose of acquiring, building, operating, and maintaining parks and green space, two (2) or more counties may form a regional park authority.
- (2)
 - (a) The regional park authority may be established by a vote of the fiscal courts of the participating counties or by a vote of the majority of the voters in each participating county voting in an election. The issue shall be placed upon the ballot if supported by a petition signed by a number of people from the participating counties equal to one percent (1%) of the voters in the last regular election.
 - (b) A county may join an existing regional park authority by a vote of the fiscal court of each participating county and of the fiscal court of the joining county, or by a vote of the majority of voters from each participating county and the joining county voting in an election. The issue shall be placed upon the ballot if supported by a petition signed by a number of people from the participating and joining counties equal to one per cent (1%) of the voters from each participating county and one percent (1%) of the voters from the joining county, voting in the last regular election.

- (3) A regional park authority is authorized to:
- (a) Levy taxes and issue bonds;
 - (b) Accept donations, land, and equipment;
 - (c) Reject unusable or unmanageable land donations;
 - (d) Hire employees and contract for services; and
 - (e) Enter into agreements with public and private entities under the provisions of the Interlocal Cooperation Act, KRS 65.210 to 65.300, and contracts authorizing the use of private facilities for public recreation.
- (4) A regional park authority may levy taxes not exceeding five cents (\$0.05) on each one hundred dollars (\$100) of all taxable property within the regional park authority's boundaries. The tax shall not be levied until a public referendum has been conducted in accordance with the provisions of KRS 83A.120 and has been adopted by the majority of the voters voting in an election in each county involved.
- (5) A regional park authority shall be governed by a board made up of three (3) citizens from each participating county. Board members shall be appointed by the fiscal court from a list of candidates provided by the cities within the county and by the county planning commission if there is one in that county.
- (6) ***A regional park authority shall comply with the provisions of Sections 1 to 9 of this Act.***

➔Section 46. KRS 97.120 is amended to read as follows:

- (1) In cities of the first and second class the city recreational committee shall consist of not less than three (3) nor more than seven (7) members, the exact number to be at the discretion of the city legislative body. In cities of the third, fourth, fifth and sixth class the city recreational committee shall consist of three (3) members.
- (a) In cities of any class the city recreational committee shall be appointed by the mayor, with the approval of a majority of the members of the legislative body of the city, for terms of four (4) years, except that the members first appointed shall be so appointed that the terms of the members will expire in different years.
 - (b) The members shall serve without compensation.
 - (c) The members shall be legal voters of the city.
 - (d) If any member during the term of his *or her* office becomes a candidate for, or is elected or appointed to any public office, he *or she* shall automatically vacate his membership on the commission and another person shall be appointed in his *or her* place; but this provision shall not prevent a member of the commission from serving as a member of any other appointive commission of the city, county, state or federal government.
- (2) Any member of the commission may be removed by the vote of three-fourths (3/4) of the elected members of the city legislative body. Vacancies shall be filled in the same manner as in the original appointment. The city may require each commissioner to execute a bond in the penal sum of one thousand dollars (\$1,000). If the commissioners are required to execute bonds, the bonds shall be approved by the legislative body of the city, and the cost thereof may either be paid by the city or by the commission out of its revenue.
- (3) The commission shall provide rules and regulations for the management of the recreational project or projects, and out of the revenue derived from the project or projects it shall pay all operating expenses, provide for necessary repairs and additions, provide a sufficient reserve fund to insure the buildings and improvements against fire and tornado, provide a fund for payment of any incidental or emergency expenses that may arise, and set up a fund to provide for the payment of any debts created in connection with the establishment and maintenance of the project or projects.
- (4) The commission may levy and collect fees for the use of or admission to the project or projects and expend or invest the income from the fees for the purposes set forth in this section.
- (5) ***The commission shall comply with the provisions of Sections 1 to 9 of this Act.***

➔Section 47. KRS 97.600 is amended to read as follows:

- (1) The park board shall keep a set of books showing the receipts and expenditures of the board. The books shall at all times be subject to examination by the mayor or any committee of the legislative body authorized to make such examination, either by themselves or by ***a certified public*** ~~an expert~~ accountant. The board shall each January transmit to the mayor and legislative body a full and detailed report and statement of the acts of

the board for the preceding year, with a complete and itemized account of all receipts and disbursements of money and an itemized estimate of the money needed for park and playground purposes.

(2) ***The board shall comply with the provisions of Sections 1 to 9 of this Act.***

➔Section 48. KRS 97.720 is amended to read as follows:

- (1) The fiscal year of the commission shall be the same as that of the city. The commission shall, each May, prepare and certify to the mayor, to be by him transmitted to the legislative body, a statement showing the total funds that, in the judgment of the commission, will be needed for maintaining the memorial for the ensuing fiscal year; setting forth in detail the sums needed for the different classes of expenditure; setting forth the estimated balance that will be on hand on the first of July following the certification of the statement and available for expenditure during the ensuing fiscal year for maintenance purposes; and indicating, as nearly as possible, what additional assets other than those derived from the city appropriation will become available for maintenance purposes for the ensuing fiscal year.
- (2) The legislative body, in making the appropriation or levy of the tax for maintenance purposes, shall take into consideration the amount of funds held or derived by the commission from donations for maintenance purposes. The commission may set aside and retain from year to year, out of the maintenance funds derived by gift or appropriation, a reasonable fund to be known as an "improvement and replacement fund," to cover needed improvements, replacements and equipment for, and depreciation of, the memorial. The funds shall be placed at interest in a bank of the city, with the mayor's approval, or invested in United States government interest-bearing bonds, or bonds of the city or any of its instrumentalities. The amount set aside each year for such purposes shall be made with the approval of the mayor, and shall be held and used as occasion requires as a further memorial building and improvement fund to improve and further equip the memorial, and for replacement purposes if the memorial or any portion of it is destroyed by casualty or decay. The cost of ordinary repairs shall be paid for out of maintenance funds.

(3) ***The commission shall comply with the provisions of Sections 1 to 9 of this Act.***

➔Section 49. KRS 104.610 is amended to read as follows:

- (1) The board of directors shall, upon taking oath, elect one (1) of their members as president of the board, and shall select some suitable person as secretary, who need not be a member of the board. The secretary shall serve as treasurer of the district, or the board may select a treasurer. The selection of the secretary and treasurer shall be evidenced on the minutes of the board, with their compensation. He or they shall serve at the pleasure of the board.
- (2) The board shall adopt a seal, and shall keep in a well-bound book a record of all proceedings, minutes of meetings, certificates, contracts, bonds given by employees, and all corporate acts, which shall be open to the inspection of any owner of property in the district as well as all other interested persons.
- (3) The board of directors shall be the governing body of the flood control district, and shall exercise all the powers and manage and control all of the affairs and property of the district.
- (4) No compensation shall be paid to directors, but each director shall be reimbursed for expenses incurred in attending meetings or for expenses incurred in other activities authorized by the board of directors as necessary for carrying out the purposes of the flood control district.
- (5) The board of directors may adopt all necessary rules and regulations for the proper management and conduct of the business of the board and of the corporation, and for carrying into effect the other objects for which the district was formed. The board of directors may also make and enforce rules and regulations pertaining to the use by persons of land or properties connected with or a part of the flood control works. All such rules and regulations shall become effective on the date when a notice of their adoption is published pursuant to KRS Chapter 424; such notice shall not contain the rules and regulations in full but shall only summarize their contents and shall state where any interested person may examine the full texts of such rules and regulations.
- (6) The board of directors may recover by civil action from any person or public corporation violating such rules and regulations a sum not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), together with costs. The board may enforce by mandamus or otherwise all necessary and authorized rules and regulations made by it, and may take summary action to remove any improper construction or to terminate any unauthorized practices in connection with flood control works. Any person or public corporation willfully failing to comply with rules and regulations of the board shall be liable for damages caused by such failure and for the cost of renewing or replacing any part of the flood control works damaged or destroyed.

(7) The board of directors shall have an annual audit made by a certified public accountant, copies of which shall be filed with the Secretary of State and with the county judge/executive of the county or counties in which the flood control district is located.

(8) ***The board of directors shall comply with the provisions of Sections 1 to 9 of this Act.***

➔Section 50. KRS 107.380 is amended to read as follows:

(1) The board shall annually file a written report concerning its operations with the county judge/executive.

(2) ***The board shall comply with the provisions of Sections 1 to 9 of this Act.***

➔SECTION 51. A NEW SECTION OF KRS 108.010 TO 108.075 IS CREATED TO READ AS FOLLOWS:

The board of directors shall comply with the provisions of Sections 1 to 9 of this Act.

➔SECTION 52. A NEW SECTION OF KRS 108.080 TO 108.180 IS CREATED TO READ AS FOLLOWS:

The board of each district shall comply with the provisions of Sections 1 to 9 of this Act.

➔SECTION 53. A NEW SECTION OF KRS CHAPTER 109 IS CREATED TO READ AS FOLLOWS:

Any board or authority shall comply with the provisions of Sections 1 to 9 of this Act.

➔Section 54. KRS 147.635 is amended to read as follows:

(1) An area planning commission created under the provisions of KRS 147.610 to 147.705 shall, not later than two (2) months prior to the first day of its fiscal year, submit a proposed budget detailing anticipated revenues and expenditures, and a proposed tax rate, to the area council for its approval on or before the first day of each such fiscal year.

(2) The area council shall contract with an independent, reputable certified public accountant to perform an audit of the records, books, and accounts of the area planning commission for each fiscal year.

(3) ***The area planning commission and area council shall comply with the provisions of Sections 1 to 9 of this Act.***

➔Section 55. KRS 147A.021 is amended to read as follows:

(1) The Department for Local Government shall have the following powers and duties:

(a) To require any reports from local governments that will enable it adequately to provide the technical and advisory assistance authorized by this section;~~[-]~~

(b) To encourage, conduct, or participate in training courses in procedures and practices for the benefit of local officials, and in connection therewith, to cooperate with associations of public officials, business and professional organizations, university faculties, or other specialists;~~[-]~~

(c) To request assistance and information, which shall be provided by all departments, divisions, boards, bureaus, commissions, and other agencies of state government to enable the Department for Local Government to carry out its duties under this section;~~[-]~~

(d) At its discretion, to compile and publish annually a report on local government; ***and***

(e) ***To administer the provisions of Sections 1 to 9 of this Act.***

(2) The Department for Local Government shall coordinate for the Governor the state's responsibility for, and shall be responsible for liaison with the appropriate state and federal agencies with respect to, the following programs:

(a) Demonstration cities and metropolitan development act as amended with the exception of Title I of the Housing and Community Development Act of 1974 as amended through 1981;

(b) Farmers Home Administration;

(c) Veterans Administration Act as amended, as it pertains to housing.

(3) The Department for Local Government shall provide technical assistance and information to units of local government, including but not limited to:

- (a) Personnel administration;
 - (b) Ordinances and codes;
 - (c) Community development;
 - (d) Appalachian Regional Development Program;
 - (e) Economic Development Administration Program;
 - (f) Intergovernmental Personnel Act Program;
 - (g) Land and Water Conservation Fund Program;
 - (h) Area Development Fund Program;
 - (i) Joint Funding Administration Program;
 - (j) State clearinghouse for A-95 review;
 - (k) The memorandums of agreement with the area development districts to provide management assistance to local governments; and
 - (l) The urban development office.
- (4) The Department for Local Government shall exercise all of the functions of the state local finance officer provided in KRS Chapters 66, 68, and 131 relating to the control of funds of counties, cities, and other units of local government.
- (5) Upon request of the Administrative Office of the Courts, the Department for Local Government shall evaluate the financial condition of any local unit of government selected to participate in a court facilities construction or renovation project under KRS 26A.160 and shall certify to the Administrative Office of the Courts the local unit of government's ability to participate in the project.
- (6) The Department for Local Government shall encourage broadband and information technology deployment and adoption throughout Kentucky in accordance with KRS 147A.023.

➔Section 56. KRS 147A.090 is amended to read as follows:

Each district board of directors shall have the power, duty, and authority to:

- (1) Establish such functional advisory committees as may be necessary and advisable. These functional advisory committees shall be organized to meet such guidelines as may be required for federal or state assistance;{+}
- (2) Conduct the necessary research and studies and coordinate and cooperate with all appropriate groups and agencies in order to develop, and adopt and revise, when necessary, a district development plan or series of plans, including, but not limited to, the following districtwide plan elements: goals and objectives; water and sewer; land-use; and open space and recreation. Such plans shall serve as a general guide for public and private actions and decisions to assure the development of public and private property in the most appropriate relationships;{+}
- (3) Prepare annually a report of its activities to the cities and counties within the district, the legislature, and the Governor. The board shall make copies of the report available to members of the public within the district; *and*
- (4) ***Comply with the provisions of Sections 1 to 9 of this Act.***

➔SECTION 57. A NEW SECTION OF SUBTITLE 50 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Any authority shall comply with the provisions of Sections 1 to 9 of this Act.

➔Section 58. KRS 164.655 is amended to read as follows:

The extension board of each extension district shall have the following powers and duties:

- (1) To serve as an agency of the Commonwealth and to manage and transact all of the business and affairs of its district and have authority to acquire property necessary for the conduct of the business of the district for the purposes of KRS 164.605 to 164.675;
- (2) To enter into an annual memorandum of agreement with the extension service and the extension district. This memorandum of agreement shall set forth the policy pertaining to (a) appointment of personnel to serve in the

- district, (b) financing of extension work in the district, and (c) responsibilities of the cooperating parties in planning and executing the program;
- (3) To, and shall as soon as possible following the first meeting in which the officers are elected and annually thereafter, file in the office of the county clerk a certificate signed by its chairman and secretary, certifying the names, addresses and terms of office of each member and the names and addresses of the officers of the extension board with the signatures of the officers affixed thereto, and said certificate shall be conclusive as to the organization of the extension district, its extension board and as to its members and its officers;
 - (4) With the advice of the extension council, to make and adopt such rules and regulations not inconsistent with the law as it may deem necessary for its own government in the transaction of the business of the extension district;
 - (5) To cooperate with the extension service and the extension council in conducting an extension program in agriculture, home economics, youth work and related subjects in the extension district. Said program shall be planned and executed upon the advice, recommendations and assistance of the extension council with the board to make final decisions;
 - (6) To cooperate with other extension districts in the employment of personnel, conduct of programs and sponsorship of activities for the mutual benefit of each;
 - (7) To cooperate with all extension organizations, farm organizations, state and federal agencies, civic clubs and any other organizations who may be interested in and willing to cooperate in conducting the extension programs in the extension district;
 - (8) To prepare annually not later than April 15 of each year in cooperation with the director of extension an extension district budget for the ensuing year. This budget shall be prepared with consideration being given to the advice and recommendations of the extension council, must be consistent with financing policies of the extension service and shall reflect the agricultural, home economics, youth and related subject matter needs of people in the extension district;
 - (9) To deposit all district extension education funds in a bank or banks approved by it in the name of the extension district. These receipts shall constitute a fund known as the district cooperative extension education fund which shall be disbursed by the treasurer of the extension board in accordance with the annual budget and the annual memorandum of agreement between the board and the extension service;
 - (10) To, from time to time when necessary and on approval of the fiscal court, borrow such funds as may be required to meet the financial obligations of the extension district; provided, however, that the extension board cannot in any fiscal year incur indebtedness in an amount which would be in excess of the anticipated revenue of said district for the fiscal year. The amount of the anticipated revenue shall be certified to said board by the fiscal court of the county in which the district is located;
 - (11) To expand the district cooperative extension education fund for salaries and travel expense of extension personnel, rental, office supplies, equipment, communications, office facilities, services and property acquisition and in payment of such other items as may be necessary to carry out the extension district program;
 - (12) To carry over unexpended district cooperative extension education funds into the next fiscal year so that funds will be available to carry on the program; provided, however, that such anticipated carry-over funds shall be taken into consideration in the formulation of the extension district budget for the ensuing year;
 - (13) To ***comply with the requirements of Sections 1 to 9 of this Act***~~file with the county fiscal court or board of commissioners and directors of extension and to publish in one (1) newspaper of general circulation in the county before October 1 of each year a report under oath of all receipts and expenditures of such district cooperative extension education funds showing from whom received, to whom paid and for what purpose for the last fiscal year~~;
 - (14) To be remunerated from the district cooperative extension education fund for actual expenses incurred in the performance of services for the extension district; provided, however, that payments for expenses must be approved by the extension board;
 - (15) To accept contributions from fiscal courts and boards of education for use in conducting extension work in the extension district as provided for under KRS 247.080;
 - (16) To accept private funds for use in conducting extension work in the extension district; provided, however, that the acceptance of all such contributions must be approved by the director of extension; and

- (17) To collect reasonable fees for specific services which require special equipment or personnel such as soil testing services, seed testing services or other services in support of the educational program of the extension district.

➔SECTION 59. A NEW SECTION OF KRS CHAPTER 173 IS CREATED TO READ AS FOLLOWS:

Any board of trustees formed and operating under KRS 173.010 to 173.410 shall comply with the provisions of Sections 1 to 9 of this Act.

➔Section 60. KRS 173.570 is amended to read as follows:

- (1) Within sixty (60) days after the close of each fiscal year the board shall make a written report to the Department for Libraries and Archives. A copy of this report shall be filed with the county clerk of each county within the district. The report shall contain:
- (a) ~~{(1) An itemized statement of the various sums of money received for the district;~~
 - (2) ~~An itemized statement of expenditures from the fund;~~
 - (3) ~~A statement of the property acquired by devise, bequest, purchase, gift or otherwise during the fiscal year;~~
 - (b)~~{(4)}~~ A statement of the character of library service furnished to the district during the fiscal year; and
 - (c)~~{(5)}~~ Any other statistics or information requested by the Department for Libraries and Archives.

- (2) ***The board shall comply with the provisions of Sections 1 to 9 of this Act.***

➔Section 61. KRS 173.770 is amended to read as follows:

- (1) Within sixty (60) days after the close of each fiscal year, the board shall make a written report to the Department for Libraries and Archives. A copy of this report shall be filed with the county clerk of each county within the district. The report shall contain:
- (a)~~{(1) An itemized statement of the various sums of money received for the district;~~
 - (2) ~~An itemized statement of expenditures from the fund;~~
 - (3)~~}~~ A statement of the property acquired by devise, bequests, purchase, gift, or otherwise during the fiscal year;
 - (b)~~{(4)}~~ A statement of the character of library service furnished to the district during the fiscal year; and
 - (c)~~{(5)}~~ Any other statistics or information requested by the Department for Libraries and Archives.

- (2) ***The board shall comply with the provisions of Sections 1 to 9 of this Act.***

➔SECTION 62. A NEW SECTION OF KRS 183.132 TO 183.165 IS CREATED TO READ AS FOLLOWS:

The board shall comply with the provisions of Sections 1 to 9 of this Act.

➔Section 63. KRS 184.080 is amended to read as follows:

- (1) The board of directors, which is hereby declared to be the governing body of the road district, shall keep a record of its proceedings, shall adopt and have a seal, and shall exercise all powers and manage and control all the affairs and property of the district.
- (2) ~~The~~~~Said~~ board of directors shall elect one (1) of its members chairman, one (1) secretary and one (1) treasurer.
- (3) The board may employ an attorney and an engineer, who shall serve in such capacities during the pleasure of the board and for such reasonable compensation as may be fixed by the board and approved by order of the county judge/executive.
- (4) Each member of the board may receive a salary of not in excess of two hundred dollars (\$200) per annum for his services, which salary shall be fixed at the first meeting of said board, and approved of by order of the county judge/executive, and thereafter may be decreased as the duties of the members decrease.
- (5) The board may adopt such rules and regulations as are necessary for its proper functioning.

- (6) The chairman, secretary and treasurer of the district shall perform such duties as are usually performed by such officers.
- (7) The county judge/executive, by method similar to that for approving settlements of fiduciaries, shall approve the accounts and acts of all directors upon death, resignation or at expiration of their term of office, which county judge/executive approval shall relieve the surety upon the bond of such director, the cost of which shall be a charge against the district.
- (8) ***The district board shall comply with the provisions of Sections 1 to 9 of this Act.***
- (9) When the affairs of the district have been completed, the directors and officers shall by verified petition ask the county judge/executive for a dissolution of the district, which petition shall include an accounting of all moneys received and disbursed by the district and shall be referred to the county judge/executive and when approved by the county judge/executive shall release said officers, directors and their sureties, the cost of which shall be a charge against the district.

➔Section 64. KRS 210.400 is amended to read as follows:

Subject to the provisions of this section and the policies and regulations of the secretary of the Cabinet for Health and Family Services, each community board for mental health or individuals with an intellectual disability shall:

- (1) Review and evaluate services for mental health or individuals with an intellectual disability provided pursuant to KRS 210.370 to 210.460, and report thereon to the secretary of the Cabinet for Health and Family Services, the administrator of the program, and, when indicated, the public, together with recommendations for additional services and facilities;
- (2) Recruit and promote local financial support for the program from private sources such as community chests, business, industrial and private foundations, voluntary agencies, and other lawful sources, and promote public support for municipal and county appropriations;
- (3) Promote, arrange, and implement working agreements with other social service agencies, both public and private, and with other educational and judicial agencies;
- (4) Adopt and implement policies to stimulate effective community relations;
- (5) Be responsible for the development and approval of an annual plan and budget;
- (6) Act as the administrative authority of the community program for mental health or individuals with an intellectual disability;~~and~~
- (7) Oversee and be responsible for the management of the community program for mental health or individuals with an intellectual disability in accordance with the plan and budget adopted by the board and the policies and regulations issued under KRS 210.370 to 210.480 by the secretary of the Cabinet for Health and Family Services; ***and***
- (8) ***Comply with the provisions of Sections 1 to 9 of this Act.***

➔Section 65. KRS 212.500 is amended to read as follows:

- (1) The board shall annually select a strong, safe, and conservative trust company, doing business in the city in which said board exists, as custodian of the funds and securities of the board received from donations and investments for specific purposes, as set out above, and may authorize said trust company to make the actual investment and reinvestment of said funds, but the proposed sale or purchase of land and securities must first be submitted to and approved of by the board. The board shall exact from such trust company a bond in double the amount of any money or property received under KRS 212.350 to 212.620, that comes into said trust company's hands, and may take the capital stock of the trust company as security or require an additional surety bond or other form of security, in such amount as it shall deem necessary as security for the funds and property in the custody of the trust company.
- (2) All expenditures of said funds shall be made only by order of the board or by the proper officers designated by said board.
- (3) The board shall cause an annual audit to be made of the receipts, expenditures and investments of said fund by ***a certified public***~~an~~ accountant~~—or accountants~~ who shall be approved by the mayor and county judge/executive of the city and county where such board is located.
- (4) ***The board shall comply with the provisions of Sections 1 to 9 of this Act.***

➔Section 66. KRS 212.639 is amended to read as follows:

- (1) ~~In order~~ To provide sufficient funds for carrying out the provisions of KRS 212.626 to 212.639, the department shall be entitled to the same state aid as is provided for county and district health departments under KRS 212.120, upon notice of the establishment of the department being given to the Cabinet for Health and Family Services as provided in KRS 212.120, the legislative intent being hereby declared to be that funding from the Cabinet for Health and Family Services be continued at least at the same level and proportion after July 1, 1977, as before its implementation and that modification or alteration of the annual allotment not be made unless for causes enumerated under the provisions of KRS 212.120.
- (2) ~~If in the event~~ the sums derived from the appropriations, together with funds otherwise available from any other source to the board during any fiscal year, for its necessary expenditures in the maintenance and operation of the board, exceed its need for such expenditures during such fiscal year, any such unexpended funds at the end of the fiscal year shall be carried forward by the board to be used in paying for its operating costs and expenses for its ensuing year.
- (3) The fiscal year of the board shall begin on July 1 of each year and shall end on June 30 of the following year.
- (4) In a timely fashion governed by the requirements of the various funding sources such as the Cabinet for Health and Family Services, urban-county government, and any and all other sources, the commissioner shall prepare for board approval a budget setting forth the total amounts of funds available from all sources for expenditures during the board's fiscal year, and setting forth the estimated expenditures of the board for the fiscal year.
- (5) The board shall install and maintain a system of accounting and shall file an annual report of its fiscal and other operations to the Cabinet for Health and Family Services and to the legislative body of the urban-county government after the close of the board's fiscal year. The annual report shall be accompanied by such information, tables, and data as may be necessary to present a reasonably detailed report of the board's condition and activities during the preceding year.
- (6) ***The board shall comply with the provisions of Sections 1 to 9 of this Act.***

➔SECTION 67. A NEW SECTION OF KRS 212.720 TO 212.760 IS CREATED TO READ AS FOLLOWS:

The board of a public health taxing district shall comply with the provisions of Sections 1 to 9 of this Act.

➔Section 68. KRS 212.794 is amended to read as follows:

- (1) The cost of creating, establishing, and maintaining the independent district health department shall be paid by the participating local boards of health in proportion to the taxable property of each county as determined by respective county assessments and in accordance with revenues generated pursuant to authority under KRS 212.720 and 212.725.
- (2) The independent district health department shall be entitled to the same state aid as provided for county and district health departments under KRS 212.120, upon notification of the establishment of the department being given to the cabinet, as provided in KRS 212.120. Funding from the cabinet shall be continued at least at the same level and proportion for similar public health activities the district after enactment of KRS 212.780 to 212.794 as before. Modification of annual allotments shall not be made unless in accordance with causes enumerated under the provisions of KRS 212.120.
- (3) An independent district board of health may establish schedules of fees and charges for any services rendered by the department and may recover the fees and charges for services from any person who receives services.
- (4) A board may make reasonable classifications in fee schedules based upon the financial ability of the person to pay and may vary charges in accordance with income classifications but no fee charged shall exceed the approximate cost of rendering such service.
- (5) The district director of health shall prepare a budget for the board's approval and set forth the total funds available from all sources for actual and estimated expenditure during the fiscal year. Fiscal years shall begin on July 1 of each year and shall end on June 30 of the following year.
- (6) A board shall install and maintain a system of accounting and records and shall file an annual report and other documents required by the fiscal courts, to the cabinet and to the local boards of health within one hundred twenty (120) days of the close of the board's fiscal year.
- (7) ***A board shall comply with the provisions of Sections 1 to 9 of this Act.***

➔Section 69. KRS 216.343 is amended to read as follows:

- (1) Every district established under KRS 216.310 to 216.360 shall at all reasonable times keep open for the inspection of the Auditor of Public Accounts all of its records and books of accounts and shall have an outside independent audit by a certified public accountant annually.
- (2) ***Any board formed and operating under KRS 216.310 to 216.360 shall comply with the provisions of Sections 1 to 9 of this Act.***

➔Section 70. KRS 220.544 is amended to read as follows:

- (1) By January 1, 2012, each district board of directors of a district shall provide public access to records relating to expenditures of the district through display of the records on a Web site.
- (2) The Web site shall be in a searchable format and shall provide financial information about expenditures not exempt under the provisions of state or federal law, including:
 - (a) The payee name;
 - (b) The category or type of expenditure;
 - (c) A description of the reason for the expenditure, if available;
 - (d) The expenditure amount;
 - (e) An electronic link to documents relating to the expenditure, if the documents are available electronically;
 - (f) The budget adopted by the district and subsequent amendments to that budget;
 - (g) The completed annual audit; and
 - (h) Any other information deemed relevant by the district.
- (3) Information on the Web site shall be updated at least on a monthly basis and shall be maintained on the Web site for at least three (3) years.
- (4) The provisions of this section shall not apply to sanitation districts with fewer than ten thousand (10,000) customer accounts.
- (5)
 - (a) ***The district shall register with the Department for Local Government as required by Section 9 of this Act.***
 - (b) ***For fiscal periods beginning on and after July 1, 2014, the provisions of Sections 1 to 9 of this Act shall apply to districts. District board members shall work with the Department for Local Government to provide the information required by this section through the registry established by Section 2 of this Act.***

➔Section 71. KRS 262.097 is amended to read as follows:

- (1) The supervisors of the respective soil conservation districts shall submit to the commission such statements, estimates, budgets, and other information at such time and in such manner as the commission requires.
- (2) ***The supervisors of the soil conservation districts shall comply with the provisions of Sections 1 to 9 of this Act.***

➔Section 72. KRS 262.280 is amended to read as follows:

- (1) The board shall provide for the keeping of a full and accurate record of all its proceedings and of all resolutions, regulations, and orders issued or adopted by it.
- (2) ***For fiscal periods ending prior to July 1, 2014, an audit of the accounts of each district shall take place once every four (4) years unless the district receives or expends seven hundred fifty thousand dollars (\$750,000) or more in any year, in which case the district shall provide for the performance of an annual audit. The audit shall be conducted in accordance with audit standards and requirements stipulated in KRS 65.065(5){(4)} for fiscal periods beginning on and after July 1, 2014, the provisions of Section 3 of this Act shall apply to audits of the accounts of each district.***
- (3) Upon request of the commission, the board shall furnish the commission with copies of ordinances, regulations, orders, contracts, forms, and other documents adopted or employed by the board and any other information requested by the commission concerning the board's activities.

➔Section 73. KRS 262.760 is amended to read as follows:

Within the first quarter of each calendar year, the board of directors shall prepare an itemized budget of the funds needed for administration, construction, operation and maintenance of works of improvement. After approval of such budget by the board of supervisors, the board of directors shall, by order or resolution, levy a tax sufficient to meet such budget, either by millage rate or per acre rate. A copy of such budget and order or resolution shall be certified to the county clerk of the county or counties involved, *and shall be submitted to the Department for Local Government as provided in Section 2 of this Act.*

➔Section 74. KRS 262.763 is amended to read as follows:

- (1) (a) *For fiscal periods ending prior to July 1, 2014*, an audit of the accounts of each watershed conservancy district shall take place once every four (4) years unless the district receives or expends seven hundred fifty thousand dollars (\$750,000) or more in any year, in which case the district shall provide for the performance of an annual audit. The audit shall be conducted in accordance with audit standards and requirements stipulated in KRS 65.065(5)~~((4))~~. The board of directors of each watershed conservancy district shall select to make the audit certified public accountants who have no personal interest in the financial affairs of the board of directors or in any of its officers or employees.
- (b) *For fiscal periods beginning on and after July 1, 2015, the provisions of Section 3 of this Act shall apply to the audit of accounts of each watershed conservancy district.*
- (2) Immediately upon completion of each audit, the accountant shall prepare a report of his findings and recommendations. This report shall be to the board of directors and in such number of copies as specified by the board of directors.~~[Immediately following receipt of the audit report, the board of directors shall cause a summary of the report or the text of the report to be advertised for the district by publication in a newspaper of general circulation in the area encompassed by the watershed conservancy district.]~~ The actual expense of any audit authorized under this section shall be borne by the watershed conservancy district.
- (3) *The board of directors shall comply with the provisions of Sections 1 to 9 of this Act.*~~[The board of directors shall forward a copy of the newspaper in which the audit report appeared to the State Auditor of Public Accounts].~~

➔Section 75. KRS 266.120 is amended to read as follows:

- (1) The board of levee commissioners shall superintend the construction, care and protection of the levee, and see that convenient crossings of the levee are made at the intersection of all public roads and at such private crossings as the commissioners may establish.
- (2) At any time the commissioners deem the levee in danger of being damaged, after being built, by wind or high water, they shall, after giving six (6) hours' notice to all persons between the ages of eighteen (18) and fifty (50) residing within the territory protected by the levee, require them to assemble at a point designated by the commissioners, and aid in the repair and protection of the levee, for which they shall be paid by the commissioners at the rate of one dollar and fifty cents (\$1.50) per day.
- (3) No person liable to work under this section shall fail to do so after being notified.
- (4) *All boards shall comply with the provisions of Sections 1 to 9 of this Act.*

➔SECTION 76. A NEW SECTION OF KRS CHAPTER 267 IS CREATED TO READ AS FOLLOWS:

All boards established under this chapter shall comply with the provisions of Sections 1 to 9 of this Act.

➔SECTION 77. A NEW SECTION OF KRS CHAPTER 268 IS CREATED TO READ AS FOLLOWS:

All boards established under this chapter shall comply with the provisions of Sections 1 to 9 of this Act.

➔Section 78. KRS 268.170 is amended to read as follows:

- (1) The board shall furnish its secretary with the necessary office room, furniture, fixtures, stationery, maps, plats, typewriter, and postage. The board shall meet as often as necessary for the proper discharge of duties at whatever places these duties require within the county in which any part of the district lies. The board shall keep complete records of its proceedings, which shall be at all times open to the inspection of the public.
- (2) The treasurer of the board shall, by May 1 of each year, make a complete and itemized report of its accounts and doings during the previous year, showing the amount of money received and from what source and the amount paid out and for what purposes. This report shall be spread upon the records and open for public inspection, *and shall be submitted to the Department for Local Government as required by Section 2 of this*

~~Act. [He shall also, by May 1 of each year, have published pursuant to KRS Chapter 424 in the county where most of the acreage of the district lies, a complete and itemized statement of the previous year showing the accounts received, the date of receipt and from what sources, the amounts paid out, the date of disbursement and for what purposes.]~~

- (3) All expenses incurred by the board shall be taken out of drainage funds and not from any general funds of the county. The commissioners shall be paid not more than three dollars (\$3) per day while actually engaged in the performance of their duties as well as all traveling expenses incurred in attending any meeting of the board or in the performance of their duties, to be paid out of the funds of the district.

➔SECTION 79. A NEW SECTION OF KRS CHAPTER 269 IS CREATED TO READ AS FOLLOWS:

Any board established under this chapter shall comply with the provisions of Sections 1 to 9 of this Act.

➔Section 80. KRS 273.441 is amended to read as follows:

- (1) Each community action agency shall:
- (a) Plan systematically for an effective community action program, develop information as to the problems and causes of poverty in the community; determine how much and how effectively assistance is being provided to deal with those problems and causes; and establish priorities among projects, activities, and areas as needed for the best and most efficient use of resources;
 - (b) Provide planning or technical assistance to agencies; and generally, in cooperation with community agencies and officials, undertake actions to improve existing efforts to reduce poverty, such as improving day-to-day communications, closing service gaps, focusing resources on the most needy, and providing additional opportunities to low-income individuals for regular employment or participation in the programs or activities for which those community agencies and officials are responsible;
 - (c) Initiate and sponsor projects responsive to needs of the poor which are not otherwise being met, with particular emphasis on providing central or common services that can be drawn upon by a variety of related programs, developing new approaches or new types of services that can be incorporated into other programs, and filling gaps pending the expansion or modification of those programs;
 - (d) Establish effective procedures by which the poor and area residents concerned will be enabled to influence the character of programs affecting their interests, provide for their regular participation in the implementation of those programs, and provide technical and other support needed to enable the poor and neighborhood groups to secure on their own behalf available assistance from public and private sources;
 - (e) Join with and encourage business, labor and other private groups and organizations to undertake, together with public officials and agencies, activities in support of the community action program which will result in the additional use of private resources and capabilities, with a view to developing new employment opportunities, stimulating investment that will have a measurable impact on reducing poverty among residents of areas of concentrated poverty, and providing methods by which residents of those areas can work with private groups, firms, and institutions in seeking solutions to problems of common concern.
- (2) If a community action agency places responsibility for the character, funding, extent, administration of, or budgeting for programs of the agency with another agency or organization, public or private, it shall do so by contract. No contract shall be made with an agency or organization which does not have a board which is broadly representative of the citizens of the geographic area served by the agency or organization.

- (3) *Each community action agency shall comply with the provisions of Sections 1 to 9 of this Act.*

➔Section 81. KRS 6.764 is amended to read as follows:

- (1) A legislator shall not accept any appointment as an officer or employee of the Commonwealth or any state agency except as provided in subsection (3) of this section and in Section 165 of the Constitution unless he shall have first resigned his membership in the General Assembly, and it shall be unlawful for the State Treasurer to pay any salary by reason of the appointment until the resignation has been received by the presiding officer of the house of which he *or she* is a member. Violation of this subsection is ethical misconduct.
- (2) A legislator shall not accept any appointment or serve as a member of the governing body of any *special purpose governmental* entity *as defined in Section 1 of this Act* ~~created pursuant to the statutes listed in KRS~~

~~65.060~~ which has the statutory authority to levy taxes or to set rates unless he *or she* shall have first resigned his membership in the General Assembly. Violation of this provision is ethical misconduct.

- (3) Notwithstanding the provisions of subsection (1) of this section, a legislator may serve on the faculty or staff of any of the state universities or community colleges or as an employee of a local public school board without resigning his *or her* membership in the General Assembly.

➔Section 82. KRS 64.012 is amended to read as follows:

The county clerk shall receive for the following services the following fees:

- (1) (a) Recording and indexing of a:
 - 1. Deed of trust or assignment for the benefit of creditors;
 - 2. Deed;
 - 3. Real estate mortgage;
 - 4. Deed of assignment;
 - 5. Real estate option;
 - 6. Power of attorney;
 - 7. Revocation of power of attorney;
 - 8. Lease which is recordable by law;
 - 9. Deed of release of a mortgage or lien under KRS 382.360;
 - 10. United States lien;
 - 11. Release of a United States lien;
 - 12. Release of any recorded encumbrance other than state liens;
 - 13. Lis pendens notice concerning proceedings in bankruptcy;
 - 14. Lis pendens notice;
 - 15. Mechanic's and artisan's lien under KRS Chapter 376;
 - 16. Assumed name;
 - 17. Notice of lien issued by the Internal Revenue Service;
 - 18. Notice of lien discharge issued by the Internal Revenue Service;
 - 19. Original, assignment, amendment, or continuation financing statement;
 - 20. Making a record for the establishment of a city, recording the plan or plat thereof, and all other service incident;
 - 21. Survey of a city, or any part thereof, or any addition to or extensions of the boundary of a city;
 - 22. Recording with statutory authority for which no specific fee is set, except a military discharge; and
 - 23. Filing with statutory authority for which no specific fee is set.

For all items in this subsection if the entire thereof does not exceed
three (3) pages\$12.00
And, for all items in this subsection exceeding three (3) pages,
for each additional page\$3.00
And, for all items in this subsection for each additional reference
relating to same instrument\$4.00

 - (b) The twelve dollar (\$12) fee imposed by paragraph (a) of this subsection shall be divided as follows:
 - 1. Six dollars (\$6) shall be retained by the county clerk; and

- 2. Six dollars (\$6) shall be paid to the affordable housing trust fund established in KRS 198A.710 and shall be remitted by the county clerk within ten (10) days following the end of the quarter in which the fee was received. Each remittance to the affordable housing trust fund shall be accompanied by a summary report on a form prescribed by the Kentucky Housing Corporation.
- (2) Recording and indexing a file-stamped copy of documents set forth in KRS 14A.2-040(1) or (2) that have been filed first with the Secretary of State:
 - (a) The entire record thereof does not exceed three (3) pages\$10.00
 - (b) And, exceeding three (3) pages, for each additional page\$3.00
- (3) Recording wills or other probate documents pursuant to KRS Chapter 392 or 394\$ 8.00
- (4) Recording court ordered name changes pursuant to KRS Chapter 401\$ 8.00
- (5) For noting a security interest on a certificate of title pursuant to KRS Chapter 186A\$12.00
- (6) For filing the release of collateral under a financing statement and noting same upon the face of the title pursuant to KRS Chapter 186 or 186A \$5.00
- (7) Filing or recording state tax or other state liens\$5.00
- (8) Filing release of a state tax or other state lien\$5.00
- (9) Marginal release, noting release of any lien, mortgage, or redemption other than a deed of release\$8.00
- (10) Acknowledging or notarizing any deed, mortgage, power of attorney, or other written instrument required by law for recording and certifying same\$4.00
- (11) Recording a land use restriction according to KRS 100.3681\$15.00
- (12) Recording plats, maps, and surveys, not exceeding 24 inches by 36 inches, per page\$20.00
- (13) Recording a bond, for each bond\$10.00
- (14) Each bond required to be taken or prepared by the clerk\$4.00
- (15) Copy of any bond when ordered\$3.00
- (16) Administering an oath and certificate thereof\$5.00
- (17) Issuing a license for which no other fee is fixed by law\$8.00
- (18) Issuing a solicitor's license\$15.00
- (19) Marriage license, indexing, recording, and issuing certificate thereof\$24.00
- (20) Every order concerning the establishment, changing, closing, or discontinuing of roads, to be paid out of the county levy when the road is established, changed, closed, or discontinued, and by the applicant when it is not\$3.00
- (21) Registration of licenses for professional persons required to register with the county clerk\$10.00
- (22) Certified copy of any record\$5.00

Plus fifty cents (\$.50) per page after three (3) pages

- (23) Filing certification required by KRS 65.070(2)~~(1)~~(a)\$5.00
- (24) Filing notification and declaration and petition of candidates
for Commonwealth's attorney\$200.00
- (25) Filing notification and declaration and petition of candidates for
office in cities of the fifth or sixth class and candidates for county
and independent boards of education\$20.00
- (26) Filing notification and declaration and petition of candidates for
boards of soil and water conservation districts\$20.00
- (27) Filing notification and declaration and petition of candidates for
other office \$50.00
- (28) Filing declaration of intent to be a write-in candidate for office
other than municipal office in a city of the fifth or sixth class\$50.00
- (29) Filing declaration of intent to be a write-in candidate for municipal
office in a city of the fifth or sixth class\$20.00
- (30) Filing petitions for elections, other than nominating petitions\$50.00
- (31) Notarizing any signature, per signature\$2.00
- (32) Filing bond for receiving bodies under KRS 311.310\$10.00
- (33) Noting the assignment of a certificate of delinquency and recording
and indexing the encumbrance under KRS 134.126 or 134.127\$27.00
- (34) Filing a going-out-of-business permit under KRS 365.445\$50.00
- (35) Filing a renewal of a going-out-of-business permit under KRS 365.445\$50.00
- (36) Filing a grain warehouseman's license under KRS 359.050\$10.00
- (37) Filing and processing a transient merchant permit under KRS 365.680\$25.00

➔Section 83. KRS 136.602 is amended to read as follows:

As used in KRS 136.600 to 136.660:

- (1) "Cable service" means the provision of video, audio, or other programming service to purchasers, and the purchaser interaction, if any, required for the selection or use of the video or other programming service, regardless of whether the programming is transmitted over facilities owned or operated by the provider or by one (1) or more other communications service providers. Included in this definition are basic, extended, and premium service, pay-per-view service, digital or other music services, and other similar services;
- (2) "Communications service" means the provision, transmission, conveyance, or routing, for consideration, of voice, data, video, or any other information signals of the purchaser's choosing to a point or between or among points specified by the purchaser, by or through any electronic, radio, light, fiber-optic, or similar medium or method now in existence or later devised.
 - (a) "Communications service" includes but is not limited to:
 - 1. Local and long-distance telephone services;
 - 2. Telegraph and teletypewriter services;
 - 3. Prepaid calling services, and postpaid calling services;
 - 4. Private communications services involving a direct channel specifically dedicated to a customer's use between specific points;
 - 5. Channel services involving a path of communications between two (2) or more points;

6. Data transport services involving the movement of encoded information between points by means of any electronic, radio, or other medium or method;
 7. Caller ID services, ring tones, voice mail and other electronic messaging services;
 8. Mobile telecommunications service as defined in 4 U.S.C. sec. 124(7); and
 9. Voice over Internet Protocol (VOIP);
- (b) "Communications services" does not include information services or multichannel video programming service;
- (3) "Department" means the Department of Revenue;
- (4) "End user" means the person who utilized the multichannel video programming service. In the case of an entity, "end user" means the individual who used the service on behalf of the entity;
- (5) "Engaged in business" means:
- (a) Having any employee, representative, agent, salesman, canvasser, or solicitor operating in this state, under the authority of the provider, its subsidiary, or related entity, for the purpose of selling, delivering, taking orders, or performing any activities that help establish or maintain a marketplace for the provider;
 - (b) Maintaining, occupying, or using permanently or temporarily, directly or indirectly, or through a subsidiary or any other related entity, agent or representative, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business;
 - (c) Having real or tangible personal property in this state;
 - (d) Providing communications service by or through a customer's facilities located in this state;
 - (e) Soliciting orders from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer or payment of the order utilizes the services of any financial institution, communications system, radio or television station, cable service, direct broadcast satellite or wireless cable service, print media, or other facility or service located in this state; or
 - (f) Soliciting orders from residents of this state on a continuous regular, systematic basis if the provider benefits from an agent or representative operating in this state under the authority of the provider to repair or service tangible personal property sold by the retailer;
- (6) "Gross revenues" means all amounts received in money, credits, property, or other money's worth in any form, by a provider for furnishing multichannel video programming service or communications service in this state excluding amounts received from:
- (a) Charges for Internet access as defined in 47 U.S.C. sec. 151; and
 - (b) Any excise tax, sales tax, or similar tax, fee, or assessment levied by the United States or any state or local political subdivision upon the purchase, sale, use, or other consumption of communications services or multichannel video programming services that is permitted or required to be added to the sales price of the communications service or multichannel video programming service. This exclusion does not include any amount that the provider has retained as a reimbursement for collecting and remitting the tax to the appropriate taxing jurisdiction in a timely manner;
- (7) "In this state" means within the exterior limits of the Commonwealth of Kentucky and includes all territory within these limits owned by or ceded to the United States of America;
- (8) "Multichannel video programming service" means programming provided by or generally considered comparable to programming provided by a television broadcast station and shall include but not be limited to:
- (a) Cable service;
 - (b) Satellite broadcast and wireless cable service; and
 - (c) Internet protocol television provided through wireline facilities without regard to delivery technology;
- (9) "Person" means and includes any individual, firm, corporation, joint venture, association, social club, fraternal organization, general partnership, limited partnership, limited liability partnership, limited liability company,

nonprofit entity, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other group or combination acting as a unit;

- (10) "Place of primary use" means the street address where the end user's use of the multichannel video programming service primarily occurs;
- (11) "Political subdivision" means a city, county, urban-county government, consolidated local government, or charter county government;
- (12) "Provider" means any person receiving gross revenues for the provision of multichannel video programming service or communications service in this state;
- (13) "Purchaser" means the person paying for multichannel video programming service;
- (14) "Resale" means the purchase of a multichannel video programming service by a provider required to collect the tax levied by KRS 136.604 for sale, or incorporation into a multichannel video programming service for sale, including but not limited to:
 - (a) Charges paid by multichannel video programming service providers for transmission of video or other programming by another provider over facilities owned or operated by the other provider; and
 - (b) Charges for use of facilities for providing or receiving multichannel video programming services;
- (15) "Retail purchase" means any purchase of a multichannel video programming service for any purpose other than resale;
- (16) "Ring tones" means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication;
- (17) "Sale" means the furnishing of a multichannel video programming service for consideration;
- (18) (a) "Sales price" means the total amount billed by or on behalf of a provider for the sale of multichannel video programming services in this state valued in money, whether paid in money or otherwise, without any deduction on account of the following:
 1. Any charge attributable to the connection, movement, change, or termination of a multichannel video programming service; or
 2. Any charge for detail billing;(b) "Sales price" does not include any of the following:
 1. Charges for installation, reinstallation, or maintenance of wiring or equipment on a customer's premises;
 2. Charges for the sale or rental of tangible personal property;
 3. Charges for billing and collection services provided to another multichannel video programming service provider;
 4. Bad check charges;
 5. Late payment charges;
 6. Any excise tax, sales tax, or similar tax, fee, or assessment levied by the United States or any state or local political subdivision, upon the purchase, sale, use, or consumption of any multichannel video programming service, that is permitted or required to be added to the sales price of the multichannel video programming service; or
 7. Internet access as defined in 47 U.S.C. sec. 151;
- (19) "Satellite broadcast and wireless cable service" means point-to-point or point-to-multipoint distribution services that include but are not limited to direct broadcast satellite service and multichannel multipoint distribution services, with programming or voice transmitted or broadcast by satellite, microwave, or any other equipment directly to the purchaser. Included in this definition are basic, extended, and premium service, pay-per-view service, digital or other music services, two (2) way service, and other similar services;
- (20) "School district" means a school district as defined in KRS 160.010 and 160.020; and
- (21) "Special district" means a special district as defined in KRS 65.005(2)~~(1)~~(a) that currently levies on any provider or its customers the public service corporation property tax under KRS 136.120.

➔Section 84. KRS 65.009 is amended to read as follows:

- (1) Except where the law provides that fiscal court members may serve as members of a district's governing body, the fiscal court of the county in which the greater portion of the district's population lies may, by resolution, designate one of its members to serve as an ex officio member of a district's governing body. Fiscal court members shall be eligible for ex officio membership on a district's governing body regardless of residency, political affiliation or other restrictions on board membership.
- (2) The fiscal court shall notify the district of the designation of an ex officio member of the governing body and the district shall provide the ex officio member with notice of all regular and special meetings of the district's governing body.
- (3) An ex officio member of a district's governing body designated pursuant to this section shall not be counted in determining a quorum nor shall he vote on matters before the district's governing body.
- (4) An ex officio member of a district's governing body designated pursuant to this section shall receive no compensation or reimbursement for expenses for attending meetings of the district's governing body.
- (5) An ex officio member of a district's governing body designated pursuant to this section shall serve in such capacity at the pleasure of the fiscal court.
- (6) *The provisions of this section shall not apply to a district established by a city or cities.*

➔SECTION 85. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

- (1) *The provisions of this section shall apply to any fee or ad valorem tax levied by a special purpose governmental entity.*
- (2) *Any special purpose governmental entity that:*
 - (a)
 1. *Adopts a new fee or ad valorem tax;*
 2. *Increases the rate at which an existing fee or tax, other than an ad valorem tax, is imposed; or*
 3. *Adopts an ad valorem tax rate;*

shall report the fee or tax to the governing body of the city or county in which the largest number of citizens served by the special purpose governmental entity reside. If the special purpose governmental entity serves only the residents of a city, the notice shall be provided to the governing body of that city.
 - (b) *The report required by paragraph (a) of this subsection shall be for informational purposes only, and the governing body shall not have the authority to adjust, amend, or veto the fee or tax, provided that any other provision of the Kentucky Revised Statutes that provides greater authority for the governing body of a city or county over taxes, fees, or rates imposed by a special purpose governmental entity shall continue to apply to those taxes, fees, or rates.*
- (3) *The report required by subsection (2) of this section shall be made by:*
 - (a) *Submission of written notification of the ad valorem tax or fee to the governing body at least thirty (30) days before the date the ad valorem tax or fee will be effective; and*
 - (b) *Presentation of testimony relating to the ad valorem tax or fee at an open, regularly scheduled meeting of the governing body at least ten (10) days prior to the date the ad valorem tax or fee will be effective.*
- (4) *The governing body shall include notification that the ad valorem tax or fee will be presented in all public notices provided for the meeting.*

➔Section 86. KRS 132.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Department" means the Department of Revenue;
- (2) "Taxpayer" means any person made liable by law to file a return or pay a tax;
- (3) "Real property" includes all lands within this state and improvements thereon;
- (4) "Personal property" includes every species and character of property, tangible and intangible, other than real property;

- (5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state;
- (6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent (\$0.001) per one hundred dollars (\$100) of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land;
- (7) "Net assessment growth" means the difference between:
- (a) The total valuation of property subject to taxation by the county, city, school district, or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year, and
 - (b) The total valuation of property subject to taxation by the county, city, school district, or special district for the current year;
- (8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:
- (a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction; however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one (1) school district to another;
 - (b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;
 - (c) The value of improvements to existing nonresidential property;
 - (d) The value of new residential improvements to property;
 - (e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;
 - (f) Property created by the subdivision of unimproved property, provided, that when such property is reclassified from farm to subdivision by the property valuation administrator, the value of such property as a farm shall be a deletion from that category;
 - (g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;
 - (h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that such property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided; and
 - (i) The value of improvements to real property previously under assessment moratorium.
- "Real property deletions" shall be limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year;
- (9) "Agricultural land" means:
- (a) Any tract of land, including all income-producing improvements, of at least ten (10) contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber;
 - (b) Any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for aquaculture; or

- (c) Any tract of land devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government;
- (10) "Horticultural land" means any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers, or ornamental plants;
- (11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:
 - (a) Relative percentages of tillable land, pasture land, and woodland;
 - (b) Degree of productivity of the soil;
 - (c) Risk of flooding;
 - (d) Improvements to and on the land that relate to the production of income;
 - (e) Row crop capability including allotted crops other than tobacco;
 - (f) Accessibility to all-weather roads and markets; and
 - (g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income;
- (12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value;
- (13) "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including but not limited to lawns, drives, flower or vegetable gardens, outbuildings, and all other land connected thereto;
- (14) "Residential unit" means all or that part of real property occupied as the permanent residence of the owner;
- (15) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property;
- (16) "Mobile home" means a structure, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure;
- (17) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, and motor home.
 - (a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.
 - (b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.
 - (c) Truck camper: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck.

- (d) Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle;
- (18) "Hazardous substances" shall have the meaning provided in KRS 224.01-400;
- (19) "Pollutant or contaminant" shall have the meaning provided in KRS 224.01-400;
- (20) "Release" shall have the meaning as provided in either or both KRS 224.01-400 and KRS 224.60-115;
- (21) "Qualifying voluntary environmental remediation property" means real property subject to the provisions of KRS 224.01-400 and 224.01-405, or 224.60-135 where the Energy and Environment Cabinet has made a determination that:
- (a) All releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum products at the property occurred prior to the property owner's acquisition of the property;
 - (b) The property owner has made all appropriate inquiry into previous ownership and uses of the property in accordance with generally accepted practices prior to the acquisition of the property;
 - (c) The property owner or a responsible party has provided all legally required notices with respect to hazardous substances, pollutants, contaminants, petroleum, or petroleum products found at the property;
 - (d) The property owner is in compliance with all land use restrictions and does not impede the effectiveness or integrity of any institutional control;
 - (e) The property owner complied with any information request or administrative subpoena under KRS Chapter 224; and
 - (f) The property owner is not affiliated with any person who is potentially liable for the release of hazardous substances, pollutants, contaminants, petroleum, or petroleum products on the property pursuant to KRS 224.01-400, 224.01-405, or 224.60-135, through:
 1. Direct or indirect familial relationship;
 2. Any contractual, corporate, or financial relationship, excluding relationships created by instruments conveying or financing title or by contracts for sale of goods or services; or
 3. Reorganization of a business entity that was potentially liable;
- (22) "Intangible personal property" means stocks, mutual funds, money market funds, bonds, loans, notes, mortgages, accounts receivable, land contracts, cash, credits, patents, trademarks, copyrights, tobacco base, allotments, annuities, deferred compensation, retirement plans, and any other type of personal property that is not tangible personal property;~~and~~
- (23) (a) "County" *means any county, consolidated local government, urban-county government, unified local government, or charter county government*~~[shall also mean a charter county government];~~
- (b) "Fiscal court" *means the legislative body of any county, consolidated local government, urban-county government, unified local government, or charter county government*~~[shall also mean the legislative body of a charter county government];~~ and
- (c) "County judge/executive" *means the chief executive officer of any county, consolidated local government, urban-county government, unified local government, or charter county government*~~;~~~~[shall also mean the chief executive officer of a charter county government]~~
- (24) "*Taxing district*" *means any entity with the authority to levy a local ad valorem tax, including special purpose governmental entities; and*
- (25) "*Special purpose governmental entity*" *shall have the same meaning as in Section 1 of this Act, and as used in this chapter shall include only those special purpose governmental entities with the authority to levy ad valorem taxes, and that are not specifically exempted from the provisions of this chapter by another provision of the Kentucky Revised Statutes.*

➔Section 87. KRS 132.023 is amended to read as follows:

- (1) No *special purpose governmental entity*~~[taxing district, other than the state, counties, school districts, cities, consolidated local governments, and urban county governments,]~~ shall levy a tax rate which exceeds the

compensating tax rate ~~[defined in KRS 132.010,]~~ until the taxing district has complied with the provisions of subsection (2) of this section.

- (2) (a) A ***special purpose governmental entity*** ~~[taxing district, other than the state, counties, school districts, cities, consolidated local governments, and urban county governments,]~~ proposing to levy a tax rate which exceeds the compensating tax rate ~~[defined in KRS 132.010,]~~ shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held ***in the same location where the governing body of the city or county where the largest number of citizens served by the special purpose governmental entity reside meets, and shall be held immediately before a regularly scheduled meeting of that governing body*** ~~[in the principal office of the taxing district, or, in the event the taxing district has no office, or the office is not suitable for a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district].~~
- (b) The ***special purpose governmental entity*** ~~[taxing district]~~ shall advertise the hearing by causing to be published at least twice in two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:
1. The tax rate levied in the preceding year, and the revenue produced by that rate;
 2. The tax rate proposed for the current year and the revenue expected to be produced by that rate;
 3. The compensating tax rate and the revenue expected from it;
 4. The revenue expected from new property and personal property;
 5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;
 6. A time and place for the public hearing which shall be held not less than seven (7) days, nor more than ten (10) days, after the day that the second advertisement is published;
 7. The purpose of the hearing; and
 8. A statement to the effect that the General Assembly has required publication of the advertisement and the information contained therein.
- (c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property in the ***special purpose governmental entity*** ~~[taxing district]~~, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.
- (d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The ***special purpose governmental entity*** ~~[taxing district]~~ may set reasonable time limits for testimony.
- (3) (a) That portion of a tax rate levied by an action of a ***special purpose governmental entity*** ~~[tax district, other than the state, counties, school districts, cities, consolidated local governments, and urban county governments]~~ which will produce revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate ~~[defined in KRS 132.010]~~ shall be subject to a recall vote or reconsideration by the ***special purpose governmental entity*** ~~[taxing district]~~, as provided for in KRS 132.017, and shall be advertised as provided ~~[for]~~ in paragraph (b) of this subsection.
- (b) The ***special purpose governmental entity*** ~~[taxing district, other than the state, counties, school districts, cities, consolidated local governments, and urban county governments]~~ shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a tax rate which will produce revenue from real property, exclusive of revenue from new property ~~[as defined in KRS 132.010,]~~ more than four percent (4%) over the amount of revenue produced by the compensating tax rate ~~[defined in KRS 132.010]~~, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:
1. The fact that the taxing district has adopted a rate;
 2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property ~~[as defined in KRS 132.010,]~~ in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate ~~[defined in KRS 132.010]~~ is subject to recall; and

3. The name, address, and telephone number of the county clerk of the county in which the *special purpose governmental entity*~~[taxing district]~~ is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

➔Section 88. KRS 132.024 is amended to read as follows:

- (1) ~~If [In the event that]~~ the tax rate applicable to real property levied by a *special purpose governmental entity*~~[taxing district, other than the state, counties, school districts, cities, and urban county governments,]~~ will produce a percentage increase in revenue from personal property less than the percentage increase in revenue from real property, the *special purpose governmental entity*~~[taxing district, other than the state, counties, school districts, cities, and urban county governments,]~~ may levy a tax rate applicable to personal property which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property.
- (2) The tax rate applicable to personal property levied by a *special purpose governmental entity*~~[taxing district, other than the state, counties, school districts, cities, and urban county governments,]~~ under the provisions of subsection (1) of this section shall not be subject to the public hearing provisions of KRS 132.023(2) and to the recall provisions of KRS 132.023(3).

➔Section 89. (1) Notwithstanding 2012 Ky. Acts ch. 144, Part VII(1)(a) and (b), \$63,700 is appropriated to the Department for Local Government budget unit in fiscal year 2012-2013 from the amount certified by the Secretary of the Finance and Administration Cabinet to be available for expenditure in fiscal year 2012-2013 pursuant to the enacted General Fund Surplus Expenditure Plan. Notwithstanding KRS 45.229, any unexpended funds from this appropriation in fiscal year 2012-2013 shall not lapse but shall be carried forward into the next fiscal year.

(2) Notwithstanding 2012 Ky. Acts ch. 144, Part VII(1)(a) and (b), \$60,000 is appropriated to the Auditor of Public Accounts budget unit in fiscal year 2012-2013 from the amount certified by the Secretary of the Finance and Administration Cabinet to be available for expenditure in fiscal year 2012-2013 pursuant to the enacted General Fund Surplus Expenditure Plan. Notwithstanding KRS 45.229, any unexpended funds from this appropriation in fiscal year 2012-2013 shall not lapse but shall be carried forward into the next fiscal year.

➔Section 90. Because it is necessary to establish an accountable and transparent reporting system for special purpose governmental entities as soon as possible, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 21, 2013.

CHAPTER 41

(HB 39)

AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 17.546 is amended to read as follows:

- (1) As used in this section:
- (a) "Instant messaging or chat room program" means a software program that allows two (2) or more persons to communicate over the Internet in real time using typed text; and
- (b) "Social networking Web site" means an Internet Web site that:
1. Facilitates the social introduction between two (2) or more persons;
 2. Allows a person to create a Web page or a personal profile; and
 3. Provides a person who visits the Web site the opportunity to communicate with another person.

- (2) No registrant~~[as defined in KRS 17.500,]~~ shall knowingly or intentionally use a social networking Web site or an instant messaging or chat room program if that Web site or program allows a person who is less than eighteen (18) years of age to access or use the Web site or program.
- (3) ***No registrant shall intentionally photograph, film, or video a minor through traditional or electronic means without the written consent of the minor's parent, legal custodian, or guardian unless the registrant is the minor's parent, legal custodian, or guardian. The written consent required under this subsection shall state that the person seeking the consent is required to register as a sex offender under Kentucky law.***
- (4) Any person who violates subsection (2) *or* (3) of this section shall be guilty of a Class A misdemeanor.

➔Section 2. KRS 500.092 is amended to read as follows:

- (1) (a) Notwithstanding KRS 500.090, all personal property which is not used as a permanent residence in this state which is used in connection with or acquired as a result of a violation or attempted violation of any of the statutes set out in subsection (3) of this section shall be subject to forfeiture under the same terms, conditions, and defenses and using the same process as set out in KRS 218A.405 to 218A.460 for property subject to forfeiture under that chapter.
- (b) ***Notwithstanding KRS 500.090, all real and personal property in this state which is used in connection with or acquired as a result of a violation or attempted violation of KRS 531.310 or 531.320 shall be subject to forfeiture under the same terms, conditions, and defenses and using the same process as set out in KRS 218A.405 to 218A.460 for property subject to forfeiture under that chapter.***
- (2) Administrative regulations promulgated under KRS 218A.420 shall govern expenditures derived from forfeitures under this section to the same extent that they govern expenditures from forfeitures under KRS 218A.405 to 218A.460.
- (3) The following offenses may trigger forfeiture of personal property under subsection (1)(a) of this section:
- (a) KRS 17.546;
- (b) KRS 508.140 and 508.150 involving the use of any equipment, instrument, machine, or other device by which communication or information is transmitted, including computers, the Internet or other electronic network, cameras or other recording devices, telephones or other personal communications devices, scanners or other copying devices, and any device that enables the use of a transmitting device;
- (c) KRS 510.155;
- (d) KRS 530.064(1)(a);
- (e) KRS 531.030;
- (f) KRS 531.040
- (g) KRS 531.310;
- (h) KRS 531.320;
- (i) KRS 531.335;
- (j) KRS 531.340;
- (k) KRS 531.350;
- (l) KRS 531.360; and
- (m) KRS 531.370.

➔Section 3. KRS 500.120 is amended to read as follows:

- (1) (a) In any investigation relating to an offense involving KRS 510.155, 530.064(1)(a), 531.030, 531.040, 531.310, 531.320, 531.335, 531.340, 531.350, 531.360, or 531.370, and upon reasonable cause to believe that an Internet service account has been used in the exploitation or attempted exploitation of children, or in any investigation of a violation of KRS 17.546, 508.140, 508.150, 525.070, or 525.080 where there is reasonable cause to believe that an Internet service account has been used in the commission of the offense, the Attorney General may issue in writing and cause to be served a subpoena requiring the production and testimony described in subsection (2) of this section.

- (b) *In any investigation relating to an offense involving KRS 510.155, 530.064(1)(a), 531.030, 531.040, 531.310, 531.320, 531.335, 531.340, 531.350, 531.360, or 531.370, and upon reasonable cause to believe that an Internet service account has been used in the exploitation or attempted exploitation of children, the commissioner of the Department of Kentucky State Police may issue in writing and cause to be served a subpoena requiring the production and testimony described in subsection (2) of this section.*
- (2) Except as provided in subsection (3) of this section, a subpoena issued under this section may require the production of any records or other documentation relevant to the investigation including:
- (a) Electronic mail address;
 - (b) Internet username;
 - (c) Internet protocol address;
 - (d) Name of account holder;
 - (e) Billing and service address;
 - (f) Telephone number;
 - (g) Account status;
 - (h) Method of access to the Internet; and
 - (i) Automatic number identification records if access is by modem.
- (3) The provider of electronic communication service or remote computing service shall not disclose the following pursuant to a subpoena issued under this section but shall disclose the information in obedience to a warrant:
- (a) In-transit electronic communications;
 - (b) Account memberships related to Internet groups, newsgroups, mailing lists or specific areas of interest;
 - (c) Account passwords; and
 - (d) Account content including:
 - 1. Electronic mail in any form;
 - 2. Address books, contacts, or buddy lists;
 - 3. Financial records;
 - 4. Internet proxy content or Web surfing history; and
 - 5. Files or other digital documents stored with the account or pursuant to use of the account.
- (4) At any time before the return date specified on the subpoena, the person summoned may, in the District Court in which the person resides or does business, petition for an order modifying or setting aside the subpoena, or a prohibition of disclosure by a court.
- (5) A subpoena under this section shall describe the objects required to be produced and shall prescribe a return date with a reasonable period of time within which the objects can be assembled and made available.
- (6) If no case or proceeding arises from the production of records or other documentation pursuant to this section within a reasonable time after those records or documentation is produced, the Attorney General shall either destroy the records and documentation or return them to the person who produced them.
- (7) A subpoena issued under this section may be served by any person who is at least eighteen (18) years of age and who is designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to him. Service may be made upon a corporation or partnership or other unincorporated association which is subject to suit under its common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena together with a true copy thereof shall be proof of service.
- (8) Except as provided in this section any information, records or data reported or obtained pursuant to subpoena under this section shall remain confidential and shall not be further disclosed unless in connection with a criminal case related to the subpoenaed materials.

➔Section 4. KRS 510.155 is amended to read as follows:

- (1) It shall be unlawful for any person to knowingly use a communications system, including computers, computer networks, computer bulletin boards, cellular telephones, or any other electronic means, for the purpose of procuring or promoting the use of a minor, or a peace officer posing as a minor if the person believes that the peace officer is a minor or is wanton or reckless in that belief, for any activity in violation of KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 529.100 where that offense involves commercial sexual activity, or 530.064(1)(a), or KRS Chapter 531.
- (2) No person shall be convicted of this offense and an offense specified in KRS 506.010, 506.030, 506.040, or 506.080 for a single course of conduct intended to consummate in the commission of the same offense with the same minor or peace officer.
- (3) The solicitation of a minor through electronic communication under subsection (1) of this section shall be prima facie evidence of the person's intent to commit the offense **and the offense is complete at that point without regard to whether the person met or attempted to meet the minor**~~[even if the meeting did not occur]~~.
- (4) This section shall apply to electronic communications originating within or received within the Commonwealth.
- (5) A violation of this section is punishable as a Class D felony.

➔Section 5. KRS 531.335 is amended to read as follows:

- (1) A person is guilty of possession **or viewing** of matter portraying a sexual performance by a minor when, having knowledge of its content, character, and that the sexual performance is by a minor, he or she:
 - (a) Knowingly has in his or her possession or control any matter which visually depicts an actual sexual performance by a minor person; **or**
 - (b) **Intentionally views any matter which visually depicts an actual sexual performance by a minor person.**
- (2) **The provisions of subsection (1)(b) of this section:**
 - (a) **Shall only apply to the deliberate, purposeful, and voluntary viewing of matter depicting sexual conduct by a minor person and not to the accidental or inadvertent viewing of such matter;**
 - (b) **Shall not apply to persons viewing the matter in the course of a law enforcement investigation or criminal or civil litigation involving the matter; and**
 - (c) **Shall not apply to viewing the matter by a minor, the minor's parents or guardians, and to school administrators investigating violations of subsection (1)(b) of this section.**
- (3) Possession **or viewing** of matter portraying a sexual performance by a minor is a Class D felony.

Signed by Governor March 21, 2013.

CHAPTER 42

(HB 45)

AN ACT relating to postsecondary financial aid for students with intellectual disabilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 164.740 is amended to read as follows:

As used in KRS 164.740 to 164.7891, the terms listed below shall have the following meanings:

- (1) "Authority" means the Kentucky Higher Education Assistance Authority.
- (2) "Board" means the board of directors of the Kentucky Higher Education Assistance Authority.
- (3) **"Comprehensive transition and postsecondary program" means a program approved by the United States Department of Education as defined in 34 C.F.R. secs. 668.230 to 668.233.**

- (4)~~(3)~~ "Eligible institution" means, unless otherwise specified in this chapter, any educational institution or class of institutions designated as an institution of higher education pursuant to section 102 of the federal act, 20 U.S.C. sec. 1002, as eligible to participate in, and that actively participates in, the Federal Pell Grant Program or, for purposes of insured student loans, is defined as an eligible institution pursuant to section 435 of the federal act, 20 U.S.C. sec. 1085, provided that no right of participation shall be deemed vested pursuant to this subsection in any institution, including, but not by way of limitation, any college, school of nursing, vocational school, or business school.
- (5)~~(4)~~ "Eligible lender" means any entity described as eligible pursuant to the federal act to make or originate insured student loans, provided that no right of participation shall be deemed vested hereby in any lender.
- (6)~~(5)~~ "Eligible student" means any student enrolled or accepted for enrollment at a participating institution, meeting the criteria established by the federal act and this chapter for the various authority administered programs.
- (7)~~(6)~~ "Endorser" means a person who signs a student loan promissory note as an accommodation party, in the manner of KRS 355.3-419, and is secondarily liable for payment on such note.
- (8)~~(7)~~ "Federal Act" means the Higher Education Act of 1965, Pub. L. 89-329, as amended.
- (9)~~(8)~~ "Grant" means a gift of money, tuition discount, waiver of tuition and fees, or other monetary award that requires neither employment nor repayment, except under conditions prescribed by the board, and is based on demonstrated financial need and such other terms and conditions as the board may prescribe.
- (10)~~(9)~~ "Honorary scholarship" means a certificate of merit or achievement or other appropriate document which may be issued by the board to students in recognition of superior academic ability or achievement or a special talent.
- (11)~~(10)~~ "Insured student loan" means a loan to an eligible borrower, who is qualified under the federal act, on which the payment of principal and interest is insured as evidenced by a loan guarantee issued by the authority and reinsured by the secretary under the federal act.
- (12)~~(11)~~ "Loan" means an advance of money, to be used exclusively for payment of educational expenses, evidenced by a promissory note or similar instrument requiring repayment under specified conditions.
- (13)~~(12)~~ "Loan guarantee" means the certificate, document, or endorsement issued by the authority as evidence of insurance of a loan as to both principal and interest and of reinsurance by the secretary under the federal act.
- (14)~~(13)~~ "Participating institution" means any eligible institution, to the extent that it offers an eligible program of study, having a contract in force with the authority, if required by the authority, on such terms as the authority may deem necessary or appropriate to the administration of its programs.
- (15)~~(14)~~ "Participating lender" means any eligible lender, including the authority and the Kentucky Higher Education Student Loan Corporation, which has in force a contract with the authority providing for loan guarantee to be issued by the authority under the federal act and this chapter.
- (16)~~(15)~~ "Penal institution" means any penitentiary, detention facility, adult correctional facility, jail, or other similar institution operated by the state, local, or federal government or by private business.
- (17)~~(16)~~ "Recognition award" means an advance of money to or on behalf of a student in recognition of superior academic ability, achievement or special talent.
- (18)~~(17)~~ "Regional accrediting association" means the Middle States Association of Colleges and Schools, Commission on Higher Education; New England Association of Schools and Colleges, Commission on Institutions of Higher Education; North Central Association of Colleges and Schools, Higher Learning Commission; Northwest Association of Schools and Colleges, Commission on Colleges; Southern Association of Colleges and Schools, Commission on Colleges; or Western Association of Schools and Colleges, Accrediting Commission for Senior Colleges and Universities.
- (19)~~(18)~~ "Scholarship" means a gift of money to provide an incentive for fulfillment of a particular public purpose which may be based on any combination of financial need, superior academic ability, achievement, a special talent, or special condition serving a public purpose and such other terms and conditions as the board may prescribe.
- (20)~~(19)~~ "Secretary" means the United States Secretary of Education.

~~(21)~~~~(20)~~ "Work study" means an award of money disbursed by the board at specified intervals to students, or as reimbursement to employers of students, who provide needed services for a specified number of hours in a capacity approved by the board.

→Section 2. KRS 164.7535 is amended to read as follows:

Notwithstanding KRS 164.753(4)(d), the Kentucky Higher Education Assistance Authority may award college access program grants pursuant to KRS 164.753(4), to the extent funds are available for the purpose, to financially needy part-time and full-time undergraduate students, including students enrolled in a program of study designated as an equivalent undergraduate program of study by the Council on Postsecondary Education in an administrative regulation. Grants shall be awarded only to students enrolled or accepted for enrollment at participating institutions located within the Commonwealth. Grants under this section shall be awarded only for attendance in a program of study of at least two (2) academic years' duration. Grants under this section shall be awarded only to students enrolled or accepted for enrollment for attendance in a program of study that leads to a degree, except that grants shall be awarded to students enrolled or accepted for enrollment at publicly-operated vocational-technical institutions for attendance in a program of study that leads to a certificate, diploma, or degree ***or in a comprehensive transition and postsecondary program. For purposes of this section, a student enrolled in a comprehensive transition and postsecondary program shall be considered a part-time student.*** Awards to recipients attending participating institutions accredited by a regional accrediting association shall not exceed the prevailing amount charged for tuition at publicly-supported community and technical colleges in Kentucky, and awards to recipients attending other participating institutions shall not exceed the prevailing amount charged for tuition at publicly-operated vocational-technical institutions in Kentucky. The provisions of this section shall not limit the authority's capability to use funds appropriated for this purpose to match federal funds, make grant awards, adopt administrative regulations that conform to the requirements of federal laws and regulations for full participation in federally-funded student financial assistance programs.

→Section 3. KRS 164.785 is amended to read as follows:

- (1) The State of Kentucky shall grant an amount as provided in KRS 164.780 and this section to any applicant who meets the following qualifications:
 - (a) Is a Kentucky resident as defined by the Kentucky Council on Postsecondary Education; and
 - (b)
 1. Has been accepted by or is enrolled as a full-time student in a program of study leading to a postsecondary degree at a Kentucky independent college or university which is accredited by a regional accrediting association recognized by the United States Department of Education and whose institutional programs are not composed solely of sectarian instruction;~~{or}~~
 2. Has been accepted by or is enrolled as a full-time student in a program of study leading to a postsecondary degree at an out-of-state postsecondary education institution licensed by the Council on Postsecondary Education to operate in Kentucky which is accredited by a regional accrediting association recognized by the United States Department of Education and whose institutional programs are not composed solely of sectarian instruction; ***or***
 3. ***Has been accepted or is enrolled as a student in a comprehensive transition and postsecondary program at an institution described in subsection (1)(b)1 of this section. For purposes of this section, a student enrolled in a comprehensive transition and postsecondary program shall be considered a part-time student, and the grant amount shall be adjusted accordingly by the Kentucky Higher Education Assistance Authority.***
 - 4.~~{3}~~ An otherwise eligible student having a disability defined by Title II of the Americans with Disabilities Act (42 U.S.C. secs. 12131 et seq.), certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability may also qualify under this paragraph; and
 - (c) Has not previously attended college or university more than the maximum number of academic terms established by the authority in administrative regulations.
- (2) The amount of the tuition grant to be paid to a student each semester, or appropriate academic term, shall be determined by the Kentucky Higher Education Assistance Authority.
- (3) The maximum amount shall not exceed fifty percent (50%) of the average state appropriation per full-time equivalent student enrolled in all public institutions of higher education. Such tuition grants are to be calculated annually by the Kentucky Higher Education Assistance Authority.

- (4) The need of each applicant shall be determined by acceptable need analysis such as use of the free application for federal student aid in conjunction with Part E of the federal act, 20 U.S.C. secs. 1087kk through 1087vv, and such other analyses as the authority may determine, subject to the approval by the United States Secretary of Education.
- (5) An adjustment shall be made in the tuition grant of any student awarded a scholarship from any other source provided the combination of grants and awards exceeds the calculated need of the student.
- (6) Accepted or enrolled students qualifying under the provisions of subsection (1)(b) of this section prior to the 2011-2012 academic year shall be under those provisions and continue under those provisions until June 30, 2014.
- (7) Beginning with the 2011-2012 academic year, and each year thereafter:
 - (a) Any Kentucky independent college or university whose institutional programs are not composed solely of sectarian instruction shall be accredited by the Southern Association of Colleges and Schools to remain an eligible institution in which a student may enroll and receive a Kentucky tuition grant;
 - (b) Programs or campuses of any out-of-state postsecondary education institution that is licensed by the Council on Postsecondary Education to operate in Kentucky and whose institutional programs are not composed solely of sectarian instruction shall be accredited by the Southern Association of Colleges and Schools in order to qualify as an eligible institution in which a student may enroll and receive a Kentucky tuition grant, except as provided in paragraph (c) of this subsection; and
 - (c) Programs or campuses of any out-of-state postsecondary education institution that is licensed by the Council on Postsecondary Education to operate in Kentucky and whose institutional programs are not composed solely of sectarian instruction, but in which accreditation by the Southern Association of Colleges and Schools is not an option, shall be reviewed and approved by the Council on Postsecondary Education based on accreditation criteria that mirrors Southern Association of Colleges and Schools accreditation criteria in order to qualify as an eligible institution in which a student may enroll and receive a Kentucky tuition grant. All costs associated with the institutional reviews shall be the responsibility of the institution seeking approval by the council. The Council on Postsecondary Education shall promulgate administrative regulations in accordance with KRS Chapter 13A to carry out the provisions of this paragraph.

➔SECTION 4. A NEW SECTION OF KRS 164.7871 TO 164.7885 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding any other statute to the contrary, a student shall be eligible for a Kentucky educational excellence scholarship who:*
 - (a) *1. Received an alternative high school diploma described in KRS 158.140(2)(b) after June 30, 2012; or*
 - 2. Attended a Kentucky public high school after June 30, 2008, and is a student with an intellectual disability as defined in 34 C.F.R. sec. 668.231; and*
 - (b) *Enrolls in a comprehensive transition and postsecondary program at a participating institution located in Kentucky.*
- (2) *A student enrolled in credit-bearing or non-credit-bearing courses as part of a comprehensive transition and postsecondary program shall receive:*
 - (a) *Two hundred fifty dollars (\$250) for enrollment in at least six (6) hours in an academic term; and*
 - (b) *One hundred twenty-five dollars (\$125) for enrollment in less than six (6) hours in an academic term.*
- (3) *A student shall be eligible for a scholarship under this section for a maximum of eight (8) academic terms.*
- (4) *The authority shall promulgate administrative regulations establishing the procedures for making awards under this section.*

Signed by Governor March 21, 2013.

CHAPTER 43

(HB 63)

AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 21.540 is amended to read as follows:

- (1) Except as provided in KRS 21.550, 21.560, and subsection (3) of this section, the board of trustees of the Judicial Form Retirement System shall be charged with the administration of that system and of KRS 21.350 to 21.510, and shall have all powers necessary thereto, including the power to promulgate all reasonable administrative regulations, pass upon questions of eligibility and disability, make employments for services, and to contract for fiduciary liability insurance, and for investment counseling, actuarial, auditing, and other professional services as required without the limitations of KRS 45A.045. The administrative expenses shall be paid out of an administrative account which shall be funded by transfers of the necessary money, in appropriate ratio, from the funds provided for in KRS 21.550 and 21.560.
- (2)
 - (a) A qualified domestic relations order issued by a court or administrative agency shall be honored by the Judicial Form Retirement System if the order is in compliance with the requirements established by the retirement system.
 - (b) Except in cases involving child support payments, the Judicial Form Retirement System may charge reasonable and necessary fees and expenses to the participant and the alternate payee of a qualified domestic relations order for the administration of the qualified domestic relations order by the retirement system. All fees and expenses shall be established by administrative regulations promulgated by the board of trustees of the retirement system. The qualified domestic relations order shall specify whether the fees and expenses provided by this subsection shall be paid:
 1. Solely by the participant;
 2. Solely by the alternate payee; or
 3. Equally shared by the participant and alternate payee.
 - (c) For purposes of this subsection, a "qualified domestic relations order" shall mean any judgment, decree, or order, including approval of a property settlement agreement, that:
 1. Is issued by a court or administrative agency; and
 2. Relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a member.
- (3) Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 21.345 to 21.580 and 6.500 to 6.577 shall conform with federal statutes or regulations and meet the qualification requirements under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance, and the board shall have the authority to promulgate administrative regulations, with retroactive effect if required under federal law, to conform the Legislators' Retirement Plan and the Judicial Retirement Plan with federal statutes and regulations and to meet the qualification requirements under 26 U.S.C. sec. 401(a).
- (4) The Judicial Form Retirement System shall make available on a public Web site, a listing of all system expenditures and a listing of each individual employed by the systems along with the employee's salary or wages. The system may provide the information through a Web site established by the executive or judicial branch to inform the public about executive or judicial branch agency expenditures and public employee salaries and wages. Nothing in this subsection shall require or compel the Judicial Form Retirement System to disclose information specific to the account of an individual member of the Legislators' Retirement Plan or the Judicial Retirement Plan.
- (5) No trustee or employee of the board shall:
 - (a) Have any interest, direct or indirect, in the gains or profits of any investment or transaction made by the board, ***provided that the provisions of this paragraph shall not prohibit a member or retiree of one of the retirement plans administered by the system from serving as a trustee;***
 - (b) Directly or indirectly, for himself or herself or as an agent, use the assets of the system, except to make current and necessary payments authorized by the board;

- (c) Become an ~~endorser~~^{indorser}, surety, or obligor for moneys loaned by or borrowed from the board;
 - (d) Have a contract or agreement with the retirement system, individually or through a business owned by the trustee or the employee;
 - (e) Use his or her official position with the retirement system to obtain a financial gain or benefit or advantage for himself or herself or a family member;
 - (f) Use confidential information acquired during his or her tenure with the systems to further his or her own economic interests or that of another person; or
 - (g) Hold outside employment with, or accept compensation from, any person or business with which he or she has involvement as part of his or her official position with the system. The provisions of this paragraph shall not prohibit:
 - 1. A trustee from serving as a judge or member of the General Assembly; *or*
 - 2. *A trustee from serving on the board if the compensation is de minimus and incidental to the trustee's outside employment. If the compensation is more than de minimus the trustee shall disclose the amount of the compensation to the other trustees, and recuse himself or herself from any matters involving hiring or retaining a person or a business from whom more than de minimus amounts are received by the trustee. For purposes of this section "de minimus" means an insignificant amount that does not raise reasonable question as to the trustee's objectivity.*
- (6) Notwithstanding any other provision of KRS 6.500 to 6.577 and 21.345 to 21.580 to the contrary, no funds of the Legislators' Retirement Plan or the Judicial Retirement Plan, including fees and commissions paid to an investment manager, private fund, or company issuing securities, who manages systems assets, shall be used to pay fees and commissions to unregulated placement agents. For purposes of this subsection, "unregulated placement agent" means an individual or firm who solicits investments on behalf of an investment manager, private fund, or company issuing securities, who is prohibited by federal securities laws and regulations promulgated thereunder from receiving compensation for soliciting a government agency.

Signed by Governor March 21, 2013.

CHAPTER 44

(HB 100)

AN ACT relating to auctions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 330.220 is amended to read as follows:

- (1) If real or personal property is offered in lots or parcels in a sale by auction, each lot or parcel shall be the subject of a separate sale. This subsection shall not preclude real or personal property from being offered for bidding individually or in some form or combination.
- (2) Unless otherwise provided in the conditions of sale for auctions regarding horses or any interests therein, a sale by auction is complete when the auctioneer so announces by the fall of the hammer, announcing the item sold, and the successful bidder's identification or in other customary manner. If it becomes immediately apparent at the close of the bidding that the auctioneer and a bid assistant or ringman have acknowledged the same bid from different bidders, the auctioneer may continue the bidding between the disputed bidders. When a bid is made while the auctioneer is in the process of completing the sale by auction, the auctioneer may continue the bidding or declare the real or personal property sold under the bid on which the hammer was falling.
- (3) No auction shall be advertised as "absolute" nor shall any advertising contain the words "absolute auction" or the word "absolute" or words with similar meaning nor shall any licensee offer or sell any real or personal property at absolute auction unless:
 - (a) There are no liens or encumbrances on the real or personal property, except property tax obligations, easements, or restrictions of record, in favor of any person, firm, or corporation other than the seller, or

unless each and every holder of each and every lien and encumbrance, by execution of the auction listing contract, or otherwise furnishing to the auctioneer written evidence of a binding commitment therefor, shall have agreed to the unqualified acceptance of the highest bid for the property, without regard to the amount of the highest bid or the identity of the high bidder; or, alternatively, that a financially responsible person, firm, or corporation, by execution of the auction listing contract or by otherwise furnishing to the auctioneer written evidence of a binding commitment therefor, shall have absolutely guaranteed the forthwith and complete discharge and satisfaction of any and all liens and encumbrances immediately after the sale or at the closing, without regard to the amount of the highest bid received, or the identity of the high bidder; and

- (b) There is the bona fide intention at the time of the advertising and at the time of the auction to transfer ownership of the real or personal property, regardless of the amount of the highest and last bid, to the high bidder, that intent existing without reliance on any agreement that any particular bid or bid level must be made or be reached, below which level the real or personal property would not be transferred to the high bidder; and
 - (c) The auction listing contract contains a binding requirement that the auction be conducted without reserve, and includes an acknowledgment that the seller, or anyone acting upon behalf of the seller, shall not bid at the absolute auction, or otherwise participate in the bidding process.
- (4) Compliance with subsection (3) of this section shall not prohibit:
- (a) A secured party or other lienholder who is not the seller from bidding at an absolute auction, providing that such bidding does not constitute, nor is it tantamount to the direct or indirect establishment or agreement to the establishment of a reserve price on the real or personal property by the seller or by the auctioneer, or by anyone aiding or assisting, or acting upon behalf of, the seller or the auctioneer; or
 - (b) Any individual party to the dissolution of any marriage, partnership, *trust, limited liability company*, or corporation from bidding as an individual entity apart from the selling entity, on real or personal property being sold at auction pursuant to that dissolution; or
 - (c) Any individual party or heir of a deceased person's bona fide estate from bidding as an individual entity, apart from the selling entity, on real or personal property being offered at auction pursuant to that estate settlement; or
 - (d) The inclusion of nonmisleading advertising of certain real or personal property to be sold at "absolute auction" and the nonmisleading advertising of certain real or personal property to be offered at auction with reserve, within the same advertisement, or for sale at the same date and place, providing that advertisement shall make clearly apparent through equal or appropriate emphasis, which real or personal property is being offered by each method.
- (5) Any auction sale is, without requirement of announcement at any time, presumed to be with reserve unless the real or personal property is in explicit terms offered at absolute auction. An auction without reserve means an absolute auction. An auction with reserve means the real or personal property may be offered subject to the seller's confirmation or subject to a certain reserve price. In an auction with reserve, the auctioneer may withdraw the real or personal property at any time until he or she announces completion of the sale. In an absolute auction, after the auctioneer calls for bids on an article, lot, or parcel, that article, lot, or parcel shall not be withdrawn unless no bid is made within a reasonable time. At both reserve auctions and without reserve auctions, the auctioneer may establish reasonable bid increments once an opening bid has been offered.
- (6) (a) The provisions of this chapter shall not prohibit any licensee from bidding on his or her own behalf at any auction sale, whether absolute or with reserve, if his or her option to do so has been fully disclosed, including disclosure to the seller.
- (b) Except as provided in subsection (4) of this section, the seller may not bid at an absolute auction, nor may anyone bid upon his or her behalf. No licensee shall knowingly receive a bid by or on behalf of the seller at an absolute auction.
 - (c) Bids may be made by the seller, or upon the seller's behalf, at any auction with reserve, provided that full disclosure has clearly been made that liberty for bidding is retained. No licensee shall knowingly receive a bid in the absence of full disclosure. If the auctioneer knowingly receives a bid on the seller's behalf or the seller makes or procures a bid and notice has not been clearly given that liberty for bidding is reserved, the buyer may avoid the sale or take the real or personal property at the price of the last good faith bid prior to the completion of the sale.

- (d) There shall be no requirement that the reserve be announced when it is attained.
- (e) Nothing in this subsection shall be construed to alter or diminish the provisions of KRS 330.210.
- (7) (a) At any absolute auction, any advertisement or representation of a minimum or suggested starting bid is prohibited.
- (b) At any reserve auction, any advertisement or representation of a minimum or suggested starting bid is prohibited unless:
 1. The minimum or suggested starting bid advertised or represented is sufficient to satisfy the auction listing contract stated reserve or confirmation amount; and
 2. The auction listing contract contains a binding acknowledgment by the seller that permission has been granted for disclosure.

➔Section 2. KRS 45A.365 is amended to read as follows:

- (1) All contracts or purchases shall be awarded by competitive sealed bidding, which may include the use of a reverse auction, except as otherwise provided by KRS 45A.370 to 45A.385 and for the purchase of wholesale electric power by municipal utilities as provided in KRS 96.901(1).
- (2) The invitation for bids shall state that the award shall be made on the basis of the lowest bid price or the lowest evaluated bid price. If the latter is used, the objective measurable criteria to be utilized shall be set forth in the invitation for bids. The invitation for bids shall include the reciprocal preference for resident bidders described in KRS 45A.494.
- (3) Adequate public notice of the invitation for bids and any reverse auction shall be given prior to the date set forth for the opening of bids. The notice may include posting on the Internet or publication in a newspaper of general circulation in the local jurisdiction *at least*~~[not less than]~~ seven (7) days before the date set for the opening of the bids and any reverse auction. ***Nothing in this section shall prohibit additional notice, posting, or publication, nor shall additional notification, posting, or publication extend the required notice period.*** The public notice shall include the time and place the bids will be opened and the time and place where the specifications may be obtained.
- (4) The bids shall be opened publicly or entered through a reverse auction at the time and place designated in the invitation for bids. Each written or reverse auction bid, together with the name of the bidder, shall be recorded and be open to public inspection. Electronic bid opening and posting of the required information for public viewing shall satisfy the requirements of this subsection.
- (5) A contract shall be awarded with reasonable promptness by written notice to the responsive and responsible bidder whose bid is either the lowest bid price or the lowest evaluated bid price after the application of any reciprocal preference for resident bidders required by KRS 45A.494.
- (6) The local public agency may allow the withdrawal of a bid where there is a patent error on the face of the bid document, or where the bidder presents sufficient evidence, substantiated by bid worksheets, that the bid was based upon an error in the formulation of the bid price.

Signed by Governor March 21, 2013.

CHAPTER 45

(HB 102)

AN ACT relating to unemployment insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 341.415 is amended to read as follows:

- (1) Any person who has received any sum as benefits under this chapter or any other state's unemployment insurance statutes or any United States Department of Labor unemployment insurance benefit program, providing the secretary has signed a reciprocal agreement with such other state or the United States Department of Labor as provided in KRS 341.145, while any condition for the receipt of such benefits was not

fulfilled in his case, or while he was disqualified from receiving benefits, or if he has received benefits in weeks for which he later receives a back pay award, shall, in the discretion of the secretary, either have such sum deducted from any future benefits payable to him under this chapter or repay the Office of Employment and Training, Department of Workforce Investment, for the fund a sum equal to the amount so received by him. If after due notice, the recipient of such sum fails to remit or arrange for remittance of the sum, the sum may be collected in the manner provided in KRS 341.300(2) for collection of past-due contributions and any sums so collected shall be credited to the pooled account or the appropriate reimbursing employer account. ***The appropriate reimbursing employer account shall not receive credit for sums collected under this subsection or paragraph (b) of subsection (2) of Section 3 of this Act if a determination has been made an improper benefit payment established after October 21, 2013, was due to the reimbursing employer, or an agent of the employer, in accordance with the provisions of paragraphs (a) and (b) of subsection (4) of Section 2 of this Act. The sums collected shall be credited to the pooled account. If any*** ~~However, if the~~ benefit was paid as a result of office error as defined by administrative regulation, there shall be no recoupment or recovery of an improperly paid benefit, except by deduction from any future benefits payable to him under this chapter. For purposes of this section, overpayments as a result of a reversal of entitlement to benefits in the appeal or review process shall not be construed to be the result of office error.

- (2) At or after the commencement of an action under subsection (1) of this section, attachment may be had against property of the recipient of improperly paid benefits in the manner provided in KRS 341.300(3).
- (3) A lien on a parity with state, county, and municipal ad valorem tax liens, is hereby created in favor of the office upon all property of any recipient of improperly paid benefits. This lien shall be for a sum equal to the amount of the overpayment finally determined and shall continue until the amount of the overpayment plus any subsequent assessment of additional improperly paid benefits, ***penalty***, interest, and fees are fully paid. The lien shall commence from such time as the recipient has exhausted or abandoned the appeal procedure set forth in this chapter and the amount of the overpayment is finally fixed. A notice of lien may be filed in the same manner as that provided for in KRS 341.310.
- (4) Any amount paid to a person as benefits, which he has been found liable to repay or to have deducted from future benefits under subsections (1), (2), and (3) of this section, which has neither been repaid nor so deducted within a period of five (5) years following the last day of the benefit year within which it was paid, may be deemed to be uncollectible and shall be permanently charged to the pooled account, except that if such payment was made by reason of fraudulent representations, no future benefits shall be paid such person within a period of ten (10) years of the last day of the benefit year within which such payments were made at which time these amounts may be declared uncollectible. Nothing in this subsection shall be deemed to affect collection of improperly paid benefits pursuant to a judgment or other legal remedy.
- (5) In the event benefits have been paid as a result of false statement, misrepresentation, or concealment of material information by a recipient of benefits and have not been repaid by the recipient within one (1) calendar year from the date of the first notice, interest at the rate of one and five-tenths percent (1.5%) per month or any part thereof, shall be imposed on and added to the unpaid balance each successive month, providing due notice has been given to the recipient. Such interest shall be paid into the unemployment compensation administration account.
- (6) ***A recipient of benefits paid as a result of false statement, misrepresentation, or concealment of material information by the recipient shall be assessed a fifteen percent (15%) penalty of the amount of improperly paid benefits. The penalty under this subsection shall be collected in the same manner as improperly paid benefits in this section and paid into the unemployment trust fund.***
- (7) The deduction from future benefits specified in subsection (1) of this section shall be limited to twenty-five percent (25%) of the benefit amount otherwise payable under this chapter unless the overpayment resulted from a backpay award, false statement, misrepresentation, or concealment of material information by a recipient of benefits. In these instances, the rate of deduction shall be one hundred percent (100%). The rate of deduction from benefits payable by another state or the United States of America shall be determined by the applicable state or federal statute.

➔Section 2. KRS 341.530 is amended to read as follows:

- (1) The Office of Employment and Training, Department of Workforce Investment, shall maintain a reserve account for each subject employer making contributions to the fund and a reimbursing employer account for each subject employer making payment in lieu of contributions, and shall, except as provided in KRS 341.590, credit to such account the total amount of all contributions or benefit reimbursement paid by the employer on

his own behalf. Nothing in this section or elsewhere in this chapter shall be construed to grant any employer or individual who is or was in his employ prior claims or rights to the amounts paid by him into the fund.

- (2) Except as provided in subsection (3) of this section, all regular benefits paid to an eligible worker in accordance with KRS 341.380 plus the extended benefits paid in accordance with KRS 341.700 to 341.740, subject to the provisions of paragraphs (a) and (b) of this subsection, shall be charged against the reserve account or reimbursing employer account of his most recent employer. No employer shall be deemed to be the most recent employer unless the eligible worker to whom benefits are payable shall have worked for such employer in each of ten (10) weeks whether or not consecutive back to the beginning of the worker's base period.
 - (a) Subject employers, which are not governmental entities as defined in KRS 341.069, shall be charged one-half (1/2) of the extended benefits paid in accordance with KRS 341.700 to 341.740; and
 - (b) Subject employers which are governmental entities, as defined in KRS 341.069, shall be charged for all extended benefits paid in accordance with KRS 341.700 to 341.740 for compensable weeks occurring on or after January 1, 1979, and for one-half (1/2) of the extended benefits paid for compensable weeks occurring prior to such date.
- (3) Notwithstanding the provisions of subsection (2) of this section, benefits paid to an eligible worker and chargeable to a contributing employer's reserve account under such subsection shall be charged against the pooled account if such worker was discharged by such employer for misconduct connected with his most recent work for such employer, voluntarily left his most recent work with such employer without good cause attributable to the employment, or the employer has continued to provide part-time employment and wages, without interruption, to the same extent that was provided from the date of hire, and the employer within a reasonable time, as prescribed by regulation of the secretary, notifies the office, in writing, of the alleged voluntary quitting, discharge for misconduct or continuing part-time employment; provided, however, that no employer making payments to the fund in lieu of contributions shall be relieved of charges by reason of this subsection.
- (4) ***Notwithstanding the provisions of subsection (3) of this section, no contributing employer's reserve account shall be relieved of any charges for benefits relating to an improper benefit payment to a worker established after October 21, 2013, if:***
 - (a) ***The improper benefit payment was made because the employer, or an agent of the employer, was at fault for failing to respond timely or adequately to the request of the secretary for information relating to a claim for benefits; and***
 - (b) ***The employer, or an agent of the employer, has a pattern of failing to respond timely or adequately to requests under paragraph (a) of this subsection. For purposes of this paragraph, a "pattern of failing" means at least six (6) failures occur in a calendar year or the failure to respond to two percent (2%) of such requests in a calendar year, whichever is greater.***
- (5) ***Any determination under subsection (4) of this section shall be transmitted to the last known physical or electronic address provided by the employer and may be appealed in accordance with the provisions of KRS 341.420(2).***
- (6) Each subject employer's reserve account or reimbursing account shall, unless terminated as of the computation date (as defined in subsection (5) of KRS 341.270), be charged with all benefits paid to eligible workers which are chargeable to such reserve account or reimbursing account under subsection (2) of this section. A subject employer's reserve account or reimbursing account shall be deemed to be terminated if he has ceased to be subject to this chapter, and his account has been closed and any balance remaining therein has been transferred to the fund's pooled account or to a successor's account as provided in KRS 341.540 or has been refunded if the employer is a reimbursing employer.
- (7)~~(5)~~ Notwithstanding subsection (1) of this section, two (2) or more nonprofit (Internal Revenue Code sec. 501(c)(3) organizations may jointly request the secretary to establish a group reserve account or reimbursing account for such nonprofit organizations. Two (2) or more governmental entities may jointly request the secretary to establish a group reserve account or reimbursing account, and once established, such account shall remain in effect at least two (2) calendar years and thereafter until either dissolved at the discretion of the secretary or upon filing application for dissolution by the group members. Each member of a group shall be jointly and severally liable for all payments due under this chapter from each or all of such group members. The secretary shall prescribe such procedures as he deems necessary for the establishment, maintenance, and dissolution of a group reserve account or reimbursing account.

~~(8)(6)~~ Any subject contributing employer may at any time on or before December 31, 2011, make voluntary payments to the fund, additional to the contributions required under KRS 341.260 and 341.270. Effective January 1, 2012, any subject contributing employer with a negative reserve account balance may make voluntary payments to the fund every other calendar year, in addition to the contributions required under KRS 341.260 and 341.270. Notwithstanding any other provision of this chapter, contributions paid on or before the computation date and voluntary payments made within twenty (20) days following the mailing of notices of new rates shall be credited to an employer's reserve account as of the computation date, provided no voluntary payments shall be used in computing an employer's rate unless the payment is made prior to the expiration of one hundred and twenty (120) days after the beginning of the year for which the rate is effective. Voluntary payments by any employer shall not exceed any negative balance they may have in their reserve account as of the computation date. Any employer who is delinquent in the payment of contributions, penalties, or interest as of the computation date shall be entitled to make voluntary payments only after the amount of the delinquency is paid in full.

➔ Section 3. KRS 341.550 is amended to read as follows:

- (1) The cabinet shall maintain a pooled account for contributing employers to which shall be credited:
 - (a) Payments received from the federal government under the provisions of Section 204(a)(1) of the "Federal-State Extended Unemployment Compensation Act of 1970," and amendments thereto;
 - (b) All realized earnings and gains on investments of the fund;
 - (c) Except as provided in KRS 341.540, any balance remaining in the reserve account of any previously subject contributing employer after such employer has ceased to be subject to this chapter;
 - (d) Any payments into or amounts in the fund not allocable to any employer's reserve account; and
 - (e) Any payments collected under subsection (2) of this section.
- (2)
 - (a) ***Except as provided in subsection (4) of Section 2 of this Act***, any benefits paid through error which would otherwise have been chargeable to the reserve account of a contributory employer shall be charged against the pooled account. However, no employer making payments to the fund in lieu of contributions shall be relieved of charges by reason of this subsection.
 - (b) The repayment of benefits paid erroneously as provided in subsection (1) of KRS 341.415 shall be credited to the pooled account. The pooled account shall be credited with any sums deducted from future benefits as provided in KRS 341.415 and shall be credited to the pooled account, provided the benefits were charged to the pooled account by reason of KRS 341.530(3), or paragraph (a) of this subsection. ***Except as provided in subsection (1) of Section 1 of this Act***, if the benefits were charged to and paid by any employer making payments to the fund in lieu of contributions, the amount of the repayment or the sum deducted from future benefits shall be credited to the reimbursing account of that employer, and may upon written request from the employer be refunded without interest.
- (3) One-half (1/2) of the benefits paid to an eligible worker in accordance with KRS 341.700 to 341.740 shall be charged against the pooled account, except that during a period in which federal payments to states under Section 204 of the Federal-State Extended Unemployment Compensation Act of 1970 are reduced under an order issued under Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), one-half (1/2) of the benefits paid to an eligible worker in accordance with KRS 341.700 to 341.740, reduced by an amount equal to the difference of one-half (1/2) of the benefits paid to an eligible worker in accordance with KRS 341.700 to 341.740 and the amount of the federal payment, shall be charged against the pooled account.

Signed by Governor March 21, 2013.

CHAPTER 46

(HB 120)

AN ACT relating to real estate appraisal.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS 324A.150 TO 324A.164 IS CREATED TO READ AS FOLLOWS:

- (1) *There is hereby created and established in the State Treasury the appraisal management company recovery fund. The fund shall be administered by the board for the purposes set forth in Section 2 of this Act.*
- (2) *In addition to the license fees provided for in Section 5 of this Act, upon issuance of every appraisal management company's registration, and every regular annual renewal date thereafter, the board shall charge each registrant an amount not to exceed eight hundred dollars (\$800) per year to be deposited in the appraisal management company recovery fund.*
- (3) *Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse, but shall be carried forward into the succeeding fiscal year. Any interest earnings of the fund shall become a part of the fund and shall not lapse.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 324A.150 TO 324A.164 IS CREATED TO READ AS FOLLOWS:

- (1) *The board shall administer the appraisal management company recovery fund solely to provide restitution to each Kentucky licensed or certified real property appraiser who has suffered pecuniary loss:*
 - (a) *As a result of an appraisal management company ceasing to be registered with the board, either voluntarily or involuntarily;*
 - (b) *If an appraiser has received a final judgment from a court of competent jurisdiction within the Commonwealth; and*
 - (c) *If no viable alternative for full restitution is available, as determined by the board.*
- (2) *Each fund distribution for restitution shall be made payable to the appropriate appraiser as determined by the board. The amount to be paid to the appraiser shall equal the actual amount of appraisal fees that are proven to be owed to the appraiser by the relevant appraisal management company and any reasonable and appropriate court costs associated with determining the final judgment in favor of the appraiser. If the amount of restitution to be paid to any one (1) or more appraisers at any one (1) time exceeds the balance in the fund, the board shall:*
 - (a) *Distribute as much of the restitution amount as possible, which shall be deemed to satisfy in full any claim the relevant appraisers have on payments from the recovery fund; and*
 - (b) *In the case of distributions to more than one (1) appraiser, provide for a pro rata distribution of the available fund balance, which shall be deemed to satisfy in full any claim the relevant appraisers have on payments from the recovery fund.*
- (3) *Whenever restitution is paid by the fund, the fund shall be subrogated to the amount of the restitution.*
- (4) *The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to:*
 - (a) *Ensure that the balance of the fund established in Section 1 of this Act shall not fall below three hundred thousand dollars (\$300,000); and*
 - (b) *Impose the fees assessed upon appraisal management companies under Section 1 of this Act whenever the balance of the fund is less than three hundred thousand dollars (\$300,000). The board shall cease imposing the fees when the balance of the fund is three hundred thousand dollars (\$300,000).*
- (5) *Within one hundred twenty (120) days after the end of each fiscal year, the board shall make public, in accordance with KRS 424.180 and 424.190, a statement of income and expenses of the appraisal management company recovery fund, the details of which are in accordance with generally accepted accounting principles.*

➔Section 3. KRS 324A.150 is amended to read as follows:

As used in KRS 324A.150 to 324A.164, unless the context otherwise requires:

- (1) "Appraisal management company" means a person who performs the actions necessary to administer a network of state-licensed appraisers to fulfill requests for appraisal management services on behalf of a client, *whether directly or through the use of software products or online*, including but not limited to *any of* the following actions:

- (a) Recruiting appraisers;
 - (b) Contracting with appraisers to perform appraisal services;
 - (c) Collecting fees from clients;
 - (d) Negotiating fees with appraisers or reimbursing appraisers for appraisal services;
 - (e) Receiving appraisal orders and appraisal reports;
 - (f) Submitting appraisal reports received from appraisers to the company's clients;
 - (g) Reviewing or verifying appraisal reports; or
 - (h) Managing the process of having an appraisal performed, including providing related administrative and clerical duties;
- (2) "Appraisal management services" means conducting business by telephone, by electronic means, by mail, or in person, directly or indirectly for compensation or other pecuniary gain or in the expectation of compensation or other pecuniary gain to:
- (a) Solicit, accept, or offer to accept a request for appraisal services; or
 - (b) Employ or contract with a licensed or certified appraiser to perform appraisal services;
- (3) "Appraisal services" means the practice of developing an opinion of the value of real estate in conformity with the minimum USPAP standards;
- (4) "Appraiser" means an individual licensed by the board who, for a fee or other consideration, develops and communicates a real estate appraisal or otherwise gives an opinion of the value of real estate or any interest in real estate in conformity with the minimum USPAP standards;
- (5) "Appraiser panel" means a group of independent appraisers who have been selected by an appraisal management company to perform appraisal services for the appraisal management company;
- (6) "Board" means the Kentucky Real Estate Appraisers Board established by KRS 324A.015;
- (7) "Client" means a person that contracts with or otherwise enters into an agreement with an appraisal management company for the performance of appraisal services;
- (8) "Controlling person" means an individual employed, appointed, or authorized by an appraisal management company to contract with clients or independent appraisers for the performance of appraisal services;
- (9) "Managing principal" has the same meaning as "controlling person";
- (10) "Registrant" means an appraisal management company or person that is registered or seeking registration under KRS 324A.152; and
- (11) "USPAP" means the Uniform Standards of Professional Appraisal Practice.

➔Section 4. KRS 324A.152 is amended to read as follows:

- (1) A person shall not act or offer to act as an appraisal management company or perform appraisal management services within the Commonwealth unless registered by the board.
- (2) To be registered by the board, a person shall make written application to the board, submit to a criminal **background**~~history~~ check as provided in subsection (3) of this section, pay a **filing** fee established by the board, and **pay the fee required to be included in the appraisal management company recovery fund created in Section 1 of this Act**~~post a surety bond as provided in KRS 324A.154~~. The written application shall include the following information:
 - (a) The name, street address, and telephone contact information of the person seeking registration;
 - (b)
 1. If the registrant is a domestic organization, the designation of an agent for service of process; or
 2. If the registrant is a foreign organization, documentation that the foreign organization is authorized to transact business in the Commonwealth and has appointed an agent for service of process by submitting a copy of:
 - a. The registrant's filing with the Secretary of State appointing an agent for service of process; and

- b. A certificate of authority issued by the Secretary of State.
A foreign organization's failure to comply with this paragraph may result in rejection of the application;
 - (c) The name, residential street address, and contact information of any person who owns ten percent (10%) or more of the appraisal management company for which registration is being requested;
 - (d) The name, residential street address, and contact information of a controlling person or managing principal;
 - (e) A certification that the registrant:
 1. Has a system and process in place to verify that any person being added to the appraiser panel of the appraisal management company, or who may be used by the appraisal management company to otherwise perform appraisals, holds a license in good standing in this state under this chapter;
 2. Has a system and process in place to review the work of all appraisers that are performing appraisal services for the appraisal management company on a periodic basis to ensure that the appraisal services are being conducted in accordance with the minimum USPAP standards; and
 3. Maintains a detailed record of each request for appraisal services that it receives and the appraiser that performs the appraisal services for the appraisal management company;
 - (f) A certification from the registrant and any partner, member, manager, officer, director, managing principal, controlling person, or person occupying a similar status or performing similar functions, or person directly or indirectly controlling the registrant that:
 1. The application for registration when filed or after filing contains no statement that, in light of the circumstances under which it was made, is false or misleading with respect to a material fact;
 2. The person certifying has not violated or failed to comply with KRS 324A.154, 324A.156, or 324A.158;
 3. The person certifying and each person who owns ten percent (10%) or more of the registrant has not pled guilty or nolo contendere to or been found guilty of:
 - a. A felony; or
 - b. Within the past ten (10) years, a misdemeanor involving mortgage lending or real estate appraising, or an offense involving breach of trust or fraudulent or dishonest dealing;
 4. The person certifying is not permanently or temporarily enjoined by a court of competent jurisdiction from engaging in or continuing any conduct or practice involving appraisal management services or operating an appraisal management company;
 5. The person certifying is not the subject of an order of the board or any other state's appraisal management company regulatory agency denying, suspending, or revoking the person's privilege to operate as an appraisal management company; and
 6. The person certifying has not acted as an appraisal management company while not properly registered by the board; and
 - (g) Any other information required by the board.
- (3) The board shall require a national and state criminal background check on the person certifying under subsection (2)(f) of this section and each person who owns ten percent (10%) or more of the registrant under the following requirements:
- (a) The person certifying and each person who owns ten percent (10%) or more of the registrant shall provide his or her fingerprints to the Department of Kentucky State Police for submission to the Federal Bureau of Investigation after a state criminal background check is conducted;
 - (b) The results of the national and state criminal background check shall be sent to the board; and
 - (c) Any fee charged by the Department of Kentucky State Police and the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the check.
- (4) The board shall issue a certificate of registration to a registrant authorizing the registrant to act or offer to act as an appraisal management company in this state upon:

- (a) Receipt of a properly completed application;
 - (b) Payment of the required *filing* fee;
 - (c) *Payment of the fee required to be included in the appraisal management company recovery fund*~~Posting of the required bond~~; and
 - (d) A determination by the board that:
 - 1. The registrant has not had a previous registration suspended or revoked; and
 - 2. The activities of the applicant shall be directed and conducted by persons who:
 - a. Have not had a previous registration suspended or revoked;
 - b. Have not pled guilty or nolo contendere to or been found guilty of a felony; or
 - c. Within the past ten (10) years have not pled guilty, pled nolo contendere to, or been found guilty of a misdemeanor involving mortgage lending or real estate appraising or an offense involving a breach of trust or fraudulent or dishonest dealing.
- (5) (a) If the board finds that there is substantial reason to deny the application for registration, the board shall notify the registrant that the application has been denied and shall afford the registrant an opportunity for a hearing before the board to show cause why the registration should not be denied.
- (b) All proceedings concerning the denial of a certificate of registration shall be conducted in accordance with KRS Chapter 13B.
- (c) The acceptance by the board of an application for registration does not constitute the approval of its contents or waive the authority of the board to take disciplinary action under KRS 324A.162.
- (6) (a) Registrations issued under this section shall be renewed annually.
- (b) Renewal shall occur on October 31 of each year.
- (c) If the initial registration occurs less than six (6) months before October 31, the renewal shall not be required until October 31 of the following year, and shall then be renewed on October 31 of each year thereafter.
- (7) (a) Failure to renew a registration in a timely manner shall result in a loss of authority to operate.
- (b) A request to reinstate a certificate of registration shall be accompanied by payment of a penalty of fifty dollars (\$50) for each month of delinquency, up to six (6) months after expiration.
- (c) After six (6) months' delinquency, a new application for registration shall be required.
- (8) The board shall promulgate administrative regulations to establish standards for the operation of appraisal management companies and for the implementation and enforcement of KRS 324A.150 to 324A.164.

➔Section 5. KRS 324A.154 is amended to read as follows:

~~{(1)}~~The board shall promulgate administrative regulations establishing a reasonable filing fee to be paid by each appraisal management company seeking registration under *Section 4 of this Act*~~{KRS 324A.152}~~. The filing fee shall include the annual fee for inclusion in the national registry maintained by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

~~{(2)}~~In addition to the filing fee, each applicant for registration shall post and maintain a surety bond with the board. The surety bond shall:

- ~~(a) Be established by the board through administrative regulation but shall not exceed five hundred thousand dollars (\$500,000);~~
- ~~(b) Be in the form prescribed by the board; and~~
- ~~(c) Accrue to the state for the benefit of any claimant against the registrant to secure the faithful performance of the registrant's obligations.~~

~~—The aggregate liability of the surety bond shall not exceed the principal sum of the surety bond.~~

~~(3) A party having a claim against the registrant may bring suit directly against the surety bond, or the board may bring suit on behalf of the party having a claim against the registrant.~~

- (4) ~~Consumer claims shall be given priority in recovering from the surety bond.~~
- (5) ~~If a claim reduces the face amount of the bond, the bond amount shall be annually restored upon renewal of the registrant's registration.]~~

➔Section 6. KRS 324A.164 is amended to read as follows:

Unless otherwise required to be registered as an appraisal management company by state or federal law, KRS 324A.150 to 324A.164 shall not apply to:

- (1) The federal government, state government, any county or municipal government, or any agency or instrumentality thereof;
- (2) A person authorized to engage in business as, or as a subsidiary of, a bank, credit union, or savings and loan association under the laws of the United States, the Commonwealth of Kentucky, or any other state;
- (3) A real estate broker or real estate agent properly licensed or otherwise authorized to do business in the Commonwealth of Kentucky *listing or selling real estate*;
- (4) An officer or employee of any entity listed in subsection (1), (2), or (3) of this section when acting within the scope of his or her employment;
- (5) An entity that is responsible for ensuring that the real estate appraisal activity being performed by an employee is performed in accordance with applicable appraisal standards;
- (6) An individual who:
 - (a) Is an appraiser; and
 - (b) In the normal course of business enters into an agreement, whether written or otherwise, with another appraiser for the performance of a real estate appraisal activity that the individual cannot complete for any reason, including:
 1. Competency;
 2. Workload;
 3. Schedule; or
 4. Geographic location;
- (7) An individual who:
 - (a) In the normal course of business enters into an agreement, whether written or otherwise, with an appraiser for the performance of real estate appraisal activity; and
 - (b) Under the agreement cosigns the report of the appraiser performing the real estate appraisal upon completion of the real estate appraisal activity; or
- (8) An appraisal management company that contracts with one (1) or more appraisers for the performance of fewer than ten (10) appraisals in this state in a calendar year.

➔Section 7. KRS 324A.010 is amended to read as follows:

As used in KRS 324A.010 to 324A.090, unless the context requires otherwise:

- (1) "Appraisal" means an oral, ~~or~~ written, *or electronic* communication *of any type or nature which is* independently and impartially prepared by a licensed or certified appraiser setting forth an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate, as of a specified date, for or in expectation of compensation;
- (2) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by other parties or the public as acting, as a third party in rendering an unbiased real estate appraisal;
- (3) "Appraisal report" means any communication, written, ~~or~~ oral, *or electronic* conveying a real estate appraisal, and all other reports communicating an appraisal analysis, opinion, or conclusion;
- (4) "Board" means the Real Estate Appraisers Board created under KRS 324A.015;
- (5) "Certificate holder or licensee" means a person certified or licensed by the board under this chapter;

- (6) "Real estate" or "real property" means real estate in its ordinary meaning and includes any leasehold or other estate or interest in, over, or under land, including leaseholds, all appurtenances and improvements thereto, and may include personal property which is integral to the use of the real property as appraised;~~and~~
- (7) "Uniform Standards of Professional Appraisal Practice" means the standards of practice promulgated by the Appraisal Standards Board of the Appraisal Foundation; **and**
- (8) **"Federally related transaction" means any real estate related financial transaction that:**
- (a) **A federal financial institution's regulatory agency engages in, contracts for, or regulates; and**
 - (b) **Requires the services of an appraiser.**

➔Section 8. KRS 324A.015 is amended to read as follows:

- (1) There is created a Real Estate Appraisers Board consisting of five (5) members, two (2) of whom shall be certified real estate appraisers, one (1) of whom shall represent the public and shall not be associated with or financially interested in the practice of real estate appraisals, and two (2) of whom shall be employed in the lending industry. The board shall administer the provisions of this chapter and may promulgate administrative regulations necessary to effectuate the provisions of KRS 324A.010 to 324A.090.
- (2) The board members shall be appointed by the Governor~~with initial appointments for two (2) members including the public member, for terms of three (3) years, two (2) members for terms of two (2) years, and one (1) member for a term of one (1) year~~. Not more than one (1) board member shall be from any one (1) county within Kentucky.~~Thereafter, the~~ **Members**~~members~~ shall be appointed by the Governor for staggered terms of three (3) years. No person shall serve more than two (2) full consecutive terms.
- (3) **The appraiser appointees to the board shall be certified and shall have engaged in the appraisal of real estate in Kentucky on a continuing basis for at least ten (10) years**~~The initial appraiser appointees to the board shall not be required to be certified, but rather shall, by their sworn statement in writing and signed, have engaged in the appraisal of real estate for at least ten (10) years within the Commonwealth of Kentucky~~.
- (4) A board member shall be automatically removed from the board and a vacancy shall occur when:
 - (a) An appraiser member of the board ceases to be certified;
 - (b) A consumer member of the board acquires a certification as an appraiser;
 - (c) A lending industry member ceases to be employed in the lending industry;
 - (d) A board member enters a plea of guilty to, or has been found guilty of, a felony and the time for appeal has passed or the judgment of conviction has been finally affirmed on appeal; or
 - (e) A board member ceases to be a bona fide resident of the Commonwealth of Kentucky.
- (5) The board shall adopt a seal with the design as the board may prescribe, by which it shall authenticate its proceedings. Copies of all records and papers in the office of the board, duly certified and authenticated by the seal of the board, shall be received in evidence in all courts equally and with like effect as the original. All records kept in the office of the board under the authority of this chapter shall be open to public inspection in accordance with KRS 61.820 to 61.884 and consistent with regulations prescribed by the board.

➔Section 9. KRS 324A.030 is amended to read as follows:

- (1) It shall be unlawful, unless certified or licensed by the board, for any person to:
 - (a) Assume or use any title, designation, or abbreviation likely to create the impression that he or she holds a license or certificate issued by the board;
 - (b) Describe or refer to any appraisal or evaluation of real estate by the term, "state certified," "state licensed," or words of substantially similar meaning; or
 - (c) Assume or use any title, designation, or abbreviation likely to create the impression of certification or licensure by the state as a real estate appraiser firm, partnership, or corporation.
- (2) A certificate holder or licensee shall not assume or use any title, designation, or abbreviation likely to create the impression of certification or licensure by the board other than the correct type of certification or licensure.
- (3) Each certificate holder or licensee who is a resident of Kentucky shall have and maintain a definite place of business in this state, **a current e-mail address, and a current telephone number**. A nonresident is not required to maintain an active place of business in this state if a definite place of business is maintained in the

state where the nonresident resides. ***A nonresident shall maintain a current e-mail address and a current telephone number.***

- (4) ***Failure by a*** ~~Each~~ certificate holder or licensee ~~to~~ ~~shall~~ notify the board of any change of business address, change of company name, ~~or~~ change of surname, ***change of phone number, or change of e-mail address*** within thirty (30) days of the change ***shall result in a penalty not to exceed two hundred dollars (\$200).***
- (5) In the case of the death of a certificate holder or licensee, the board may, in its sound discretion, permit a suitable individual to complete the affairs and appraisal assignments of the deceased.
- (6) For any employee of the Transportation Cabinet whose job description includes real estate appraisals which require certification, the Transportation Cabinet shall bear the costs of initial application, examination, continued education, and annual renewal.
- (7)
 - (a) Those Transportation Cabinet employees serving as right-of-way agents or supervisors, who actually perform on-site appraisals as part of their job descriptions and who have obtained an appraiser certification under the provisions of KRS 324A.010 to 324A.090, shall receive a five percent (5%) salary increase effective January 1 following certification. Those right-of-way agents or supervisors who received certification prior to January 1, 1991, shall receive the salary increase effective January 1, 1991.
 - (b) The salary increases provided for in subsection (a) of this section shall be made within existing Transportation Cabinet appropriations.
- (8) ***A person shall not provide appraisal, appraisal review, or appraisal consulting assignments or perform any of the duties usually performed by a licensed or certified real property appraiser for a federally related transaction unless the person at the time holds a license or certification of real property appraiser issued and validly existing under the laws of the Commonwealth of Kentucky, as provided in this chapter.***

➔Section 10. KRS 324A.035 is amended to read as follows:

- (1) The board shall promulgate administrative regulations pursuant to the provisions of this chapter and KRS Chapter 13A for certification or licensure of appraisers ***who perform appraisals*** of real property in federally-related transactions. Requirements established by the board relating to appraisers of federally-related transactions shall not exceed the minimum requirements established by federal law or regulation;
- (2) The board shall promulgate administrative regulations pursuant to KRS Chapter 13A for certification or licensure of appraisers of real property in nonfederally-related transactions.
 - (a) Appraisers who wish to be limited to appraisals of nonfederally-related transactions, and who have engaged in the appraisal of real estate for at least ten (10) years prior to April 7, 1992, shall be certified or licensed as appraisers of nonfederally-related transactions.
 - (b) Appraisers who wish to be limited to appraisals of nonfederally-related transactions, and who have not engaged in the appraisal of real estate for at least ten (10) years prior to April 7, 1992, shall be certified or licensed as appraisers of nonfederally-related transactions if they meet the certification or licensure requirements established by the board.
- (3) The board shall establish by administrative regulations requirements for:
 - (a) Classifications of appraisers;
 - (b) Certification and licensure;
 - (c) Renewal, suspension, or revocation of certification or licensure;
 - (d) Standards of professional appraisal practice, including experience, education, and ethics;
 - (e) Examination of applicants for certification or licensure; and
 - (f) Continuing education of appraisers.

➔Section 11. KRS 324A.045 is amended to read as follows:

- (1) The board shall issue to each qualified applicant a certificate or license in form and size as shall be prescribed by the board.
- (2) Every certificate and license shall be subject to annual renewal on the date or dates determined by the board by administrative regulation. Each certificate and license holder shall submit proof of compliance with the

continuing education requirements when appropriate and the annual renewal fee to the board on or before the last day of the designated month. Failure to receive a renewal form shall not constitute an adequate excuse for failure to renew on time.

- (3) If the certificate or license holder fails to renew in a timely manner, the certificate or license shall expire. Within six (6) months after the renewal date, the former certificate or license holder shall be reinstated by complying with all appropriate renewal requirements and paying a late fee not to exceed two hundred dollars (\$200).
- (4) If six (6) months or more elapse after the renewal date, the former certificate or license holder shall be required to meet all *current* requirements as if applying for initial certification or licensure.

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 324A IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Real Estate Appraisers Board shall require a national and state criminal background check for each initial application to be a licensed or certified real property appraiser under the following requirements:*
 - (a) *The applicant shall provide his or her fingerprints to the Department of Kentucky State Police for submission to the Federal Bureau of Investigation after a state criminal background check is conducted;*
 - (b) *The results of the national and state criminal background check shall be sent to the board; and*
 - (c) *Any fee charged by the Department of Kentucky State Police and the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the check.*
- (2) *The board shall issue a license or certification to an applicant authorizing the applicant to act or offer to act as a licensed or certified real property appraiser in this state upon:*
 - (a) *Receipt of a properly completed application;*
 - (b) *Successful completion of all applicable education, experience, and examination;*
 - (c) *Successful completion of all statutory and administrative regulation requirements for licensing and certification of a real property appraiser; and*
 - (d) *Payment of the required application fee.*

➔Section 13. KRS 324A.050 is amended to read as follows:

- (1) The board may refuse to issue, refuse to renew, suspend, or revoke a certificate or license, reprimand, admonish, place on probation, or impose a fine up to two thousand dollars (\$2000) *per each violation determined by the board, not to exceed five thousand dollars (\$5000)*, on a certificate holder or licensee, or any combination thereof, for any of the following reasons:
 - (a) Procuring or attempting to procure a certificate or license by knowingly making a false statement or submitting false information, or through any form of fraud or misrepresentation;
 - (b) Refusing to provide complete information in response to a question in an application to the board or failing to meet the minimum qualifications established by the board;
 - (c) Being convicted of any felony, or of a misdemeanor that may result in a sentence which includes or requires incarceration;
 - (d) Committing an act involving dishonesty, fraud, or misrepresentation;
 - (e) Violating any of the provisions of KRS 324A.010 to 324A.090, the administrative regulations of the board, or any lawful order of the board;
 - (f) Violating the confidential nature of records to which the appraiser gained access through employment or engagement as an appraiser;
 - (g) Committing any other conduct which constitutes or demonstrates bad faith, untrustworthiness, impropriety, fraud, or dishonesty;
 - (h) Failing or refusing, without good cause, to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;

- (i) Being negligent or incompetent in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal;~~{or}~~
 - (j) Failing to observe one (1) or more of the Uniform Standards of Professional Appraisal Practice; *or*
 - (k) ***Having a license or registration certificate to practice as a licensed or certified real property appraiser denied, limited, suspended, probated, or revoked in another jurisdiction on grounds sufficient to cause licensure to be denied, limited, suspended, probated, or revoked in this state.***
- (2) ***Notwithstanding any other provision of this chapter to the contrary, the requirements of KRS Chapter 324A, the board's administrative regulations, and the Uniform Standards of Professional Appraisal Practice shall constitute the minimum standard of conduct and performance for a licensee or credential holder in any work or service performed that is addressed by those standards.***
- (3) ***In any proceeding in which a suspension of thirty (30) days or more, or revocation is imposed, the board may require the respondent to pay the actual costs of the investigation and all proceedings not to exceed ten thousand dollars (\$10,000).***
- ~~(4){(2)}~~ Three (3) years from the date of a revocation, any certificate holder or licensee whose certificate or license has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate, upon a finding that the petitioner has complied with any ***and all*** terms prescribed by the board and is able to engage in the practice of real estate appraisal within the requirements of this chapter and the administrative regulations. The board may, in its discretion, require the petitioner to successfully pass the examination required for the applicable certificate or license.

➔Section 14. KRS 324A.065 is amended to read as follows:

The board shall establish by regulation and collect the following fees for certification or licensure as an appraiser for:

- (1) Federally-related transactions:
 - (a) Initial application fee in an amount not to exceed two hundred twelve dollars (\$212), which shall include a fee for the current edition of the Uniform Standards of Professional Practice;
 - (b) Examination fee in an amount not to exceed two hundred dollars (\$200);
 - (c) An annual certificate or licensure fee in an amount not to exceed two hundred twelve dollars (\$212), which shall include a fee for the current edition of the Uniform Standards of Professional Appraisal Practice;
 - 1. Duplicate certificate fee in an amount not to exceed ten dollars (\$10);
 - 2. Certificate correction fee in an amount not to exceed ten dollars (\$10);
 - (d) Roster fee not to exceed fifty dollars (\$50).
- (2) Nonfederally-related transactions:
 - (a) Initial application fee in an amount not to exceed one hundred dollars (\$100);
 - (b) Examination fee in an amount not to exceed one hundred dollars (\$100);
 - (c) An annual certificate or licensure renewal fee in an amount not to exceed one hundred dollars (\$100);
 - 1. Duplicate certificate fee in an amount not to exceed five dollars (\$5);
 - 2. Certificate correction fee in an amount not to exceed five dollars (\$5);
 - (d) Roster fee not to exceed twenty-five dollars (\$25).
- (3)
 - (a) All fees and charges collected by the board under the provisions of this chapter shall be paid into the Real Estate Appraisers Board's trust and agency account in the State Treasury.
 - (b) All expenses incurred by the board under the provisions of this chapter, including compensation to the board members and staff, shall be paid out of this account, subject to approval of the board.
 - (c) ***The provisions of this subsection shall not apply to the fee charged pursuant to Section 1 of this Act, which is required to be included in the appraisal management company recovery fund and which shall be paid into that fund.***

~~{(4) All fees and charges collected by the board under the provisions of this chapter shall be paid into the Real Estate Appraisers Board's trust and agency account in the State Treasury. All expenses incurred by the board under the provisions of this chapter, including compensation to the board members and staff, shall be paid out of this account, subject to approval of the board.}~~

→ Section 15. KRS 324A.075 is amended to read as follows:

If, in the determination by the board, another state is deemed to have substantially equivalent *or greater* certification or licensure requirements for real *property*~~{estate}~~ appraisers, an applicant who is certified or licensed under the laws of another state *seeking to practice in this state shall apply to*~~{may}~~ obtain a certificate as a state certified *or licensed* real *property*~~{estate}~~ appraiser in this state upon terms and conditions determined by the board.

→ Section 16. KRS 324A.090 is amended to read as follows:

~~{On April 7, 1992,}~~ Any person who is not a *licensed or* certified real *property*~~{estate}~~ appraiser who engages in an activity described in KRS 324A.030~~{(1)}~~, shall be guilty of a Class A misdemeanor. Each violation should be regarded as a separate offense.

Signed by Governor March 21, 2013.

CHAPTER 47

(HB 126)

AN ACT relating to the Petroleum Tank Environmental Assurance Fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

→ Section 1. KRS 224.60-142 is amended to read as follows:

- (1) To be eligible to participate in the fund, the owner of any petroleum storage tank containing motor fuels installed and placed in operation after July 15, 2004, shall register the petroleum storage tank with the cabinet as required by KRS 224.60-105 prior to applying for participation in the financial responsibility account.
- (2) The owner of any petroleum storage tank containing motor fuels currently existing, or removed from the ground after January 1, 1974, shall register the petroleum storage tank containing motor fuels with the cabinet prior to applying to the fund, and shall register the petroleum storage tank containing motor fuels by **July 15, 2016**~~{July 15, 2013}~~. Owners or operators may submit affidavits and applications relevant to current petroleum storage tank accounts through **July 15, 2016**~~{July 15, 2013}~~.

→ Section 2. KRS 224.60-130 is amended to read as follows:

- (1) The Energy and Environment Cabinet, Department for Environmental Protection, Division of Waste Management, shall:
 - (a) Establish by administrative regulation the policy, guidelines, and procedures to administer the financial responsibility and petroleum storage tank accounts of the petroleum storage tank environmental assurance fund. In adopting administrative regulations to carry out this section, the division may distinguish between types, classes, and ages of petroleum storage tanks. The division may establish a range of amounts to be paid from the fund, or may base payments on methods such as pay for performance, task order, or firm fixed pricing, which are designed to provide incentives for contractors to more tightly control corrective action costs, and shall establish criteria to be met by persons who contract to perform corrective action to be eligible for reimbursement from the fund. The criteria may include the certification of individuals, partnerships, and companies. Criteria shall be established to certify laboratories that contract to perform analytical testing related to the underground storage tank program. Owners and operators shall have all required analytical testing performed by a certified laboratory to be eligible for fund participation. Persons who contract with petroleum storage tank owners or operators shall not be paid more than the amount authorized by the division for reimbursement from the fund for the performance of corrective action. At a minimum, the division shall promulgate administrative regulations that will insure an unobligated balance in the fund adequate to meet financial assurance requirements and corrective action requirements of KRS 224.60-135(2) and

- (4). If the unobligated balance in the fund is not adequate to meet the requirements of this paragraph, the division shall obligate funds necessary to meet these requirements;
- (b) Establish by administrative regulation the criteria to be met to be eligible to participate in the financial responsibility and petroleum storage tank accounts and to receive reimbursement from these accounts. The division may establish eligibility criteria for the petroleum storage tank account based upon the financial ability of the petroleum storage tank owner or operator. Owners or operators seeking coverage under the petroleum storage tank account shall file for eligibility and for financial assistance with the division. To ensure cost effectiveness, the division shall promulgate administrative regulations specifying the circumstances under which prior approval of corrective action costs shall be required for those costs to be eligible for reimbursement from the fund. In promulgating administrative regulations to carry out this section, the division may distinguish between types, classes, and ages of petroleum storage tanks and the degree of compliance of the facility with any administrative regulations of the cabinet promulgated pursuant to KRS 224.60-105 or applicable federal regulations;
 - (c) Establish a financial responsibility account within the fund which may be used by petroleum storage tank owners and operators to demonstrate financial responsibility as required by administrative regulations of the cabinet or the federal regulations applicable to petroleum storage tanks, consistent with the intent of the General Assembly as set forth in KRS 224.60-120(5). The account shall receive four-tenths of one cent (\$0.004) from the one and four-tenths cent (\$0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145. To be eligible to use this account to demonstrate compliance with financial responsibility requirements of the cabinet or federal regulations, or to receive reimbursement from this account for taking corrective action and for compensating third parties for bodily injury and property damage, the petroleum storage tank owner or operator shall meet the eligibility requirements established by administrative regulation promulgated by the division;
 - (d) Establish a small operator assistance account within the fund which may be used by the division to make or participate in the making of loans, to purchase or participate in the purchase of the loans, which purchase may be from eligible lenders, or to insure loans made by eligible lenders;
 - (e) Establish a petroleum storage tank account within the fund to be used to pay the costs of corrective action due to a release from a petroleum storage tank not eligible for reimbursement from the financial responsibility account. Reimbursements of corrective action projects performed under the petroleum storage tank account shall be carried out on or before **July 15, 2019**~~July 15, 2016~~. Any corrective action costs incurred after this date shall not be eligible for reimbursement under the petroleum storage tank account. The account shall receive one cent (\$0.01) from the one and four-tenths cent (\$0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145. This account shall not be used to compensate third parties for bodily injury and property damage. Within three (3) months after July 15, 2004, the division shall develop a plan to address the payment of claims and completion of corrective action at facilities eligible for reimbursement from this account. The division shall establish a ranking system to be used for the distribution of amounts from this account for the purpose of corrective action. In promulgating administrative regulations to carry out this section, the division shall consider the financial ability of the petroleum storage tank owner or operator to perform corrective action and the extent of damage caused by a release into the environment from a petroleum storage tank;
 - (f) Hear complaints brought before the division regarding the payment of claims from the fund in accordance with KRS 224.10-410 to 224.10-470;
 - (g) Establish and maintain necessary offices within this state, appoint employees and agents as necessary, and prescribe their duties and compensation;
 - (h) Employ, in accordance with the procedures found in KRS 45A.690 to 45A.725 for awarding personal service contracts, a qualified actuary to perform actuarial studies, as directed by the division, for determining an appropriate reserve in the financial responsibility account and the petroleum storage tank account sufficient to satisfy the obligations in each account for all eligible facilities and to satisfy future liabilities and expenses necessary to operate each account. The division shall, by administrative regulation, set the entry level for participation in the fund;
 - (i) Authorize expenditures from the fund to carry out the purpose of KRS 224.60-105 to 224.60-160, including reasonable costs of administering the fund, the procurement of legal services, and the procurement of analytical testing services when necessary to confirm the accuracy of analytical testing

results obtained by a petroleum storage tank owner or operator. The expenditures shall be paid from the appropriate account;

- (j) Establish a small operators' tank removal account within the fund to reimburse the reasonable cost of tank system removal for small owners and operators. The account shall not be used when an owner or operator is removing the tank with the intention of replacing or upgrading the tank. In promulgating administrative regulations to carry out this paragraph, the division may distinguish among owners and operators based on income and types and classes of tanks. The division shall not place a limit on the number of tanks that an owner or operator has in order to be eligible to participate in the program and receive reimbursement under this paragraph;
 - (k) Establish by administrative regulation the policy, guidelines, and procedures to perform financial audits of any petroleum storage tank owner or operator receiving reimbursement from the fund or any entity contracting or subcontracting to provide corrective action services for facilities eligible for fund reimbursement. Financial audits shall be limited to those files, records, computer records, receipts, and other documents related to corrective action performed at a facility where the costs of corrective action have been reimbursed by the fund. Files, records, computer records, receipts, and other documents related to corrective action reimbursed by the fund shall be subject to a financial audit for a period of three (3) years after the date of final reimbursement from the fund. Results of the audits shall be protected from disclosure as allowed by KRS 61.878(1)(c). Financial auditing services may be contracted for or personnel may be employed as needed to implement the requirements of this paragraph;
 - (l) Be authorized to enter and inspect any facility intending to seek reimbursement for the cost of corrective action to determine the reasonableness and necessity of the cost of corrective action. The division may collect soil or water samples or require storage tank owners or operators to split samples with the division for analytical testing. Refusal to allow entry and inspection of a facility or refusal to allow the division to collect or split samples shall make the facility ineligible for fund participation;
 - (m) Have inspectors on site at all tank system removals. Failure to comply with this provision shall make the facility ineligible for fund participation. A petroleum storage tank owner or operator may request through certified mail that the division schedule an inspector to be present at an upcoming tank removal. If the request is made at least two (2) weeks before the time for the removal and an inspector fails to be present at the time scheduled, the tank removal may proceed without making the facility ineligible for fund participation unless the owner is notified by the division no later than ten (10) days prior to the proposed date that an inspector is not available on the proposed date, in which event a representative of the division shall contact the operator and schedule a new date. If no inspector is present at the rescheduled date, the removal may then proceed without penalty; and
 - (n) Establish that the deadline for submission of final reimbursement requests under the petroleum storage tank account is two (2) years after receipt of a no further action letter.
- (2) The division may advise the cabinet on the promulgation of administrative regulations concerning petroleum storage tanks.
 - (3) The division may sue and be sued in its own name.
 - (4) The division may transfer funds from the petroleum storage tank account to the small operator tank removal account as needed to satisfy the obligations, future liabilities, and expenses necessary to operate that account. The division may transfer funds to the financial responsibility account as needed to maintain within that account sufficient funds to demonstrate financial responsibility and to ensure payment of claims as provided in subsection (1)(c) of this section.

➔Section 3. KRS 224.60-145 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, there is established a petroleum environmental assurance fee to be paid by dealers on each gallon of gasoline and special fuels received in this state.
- (2) All deductions detailed in KRS 138.240(2) and all credits detailed in KRS 138.358 are exempt from the fee. If a dealer has on file, pursuant to KRS Chapter 138, a statement supporting a claimed exemption, an additional statement shall not be required for claiming exemption from the fee.
- (3) The fee shall be reported and paid to the Department of Revenue at the same time and in the same manner as is required for the reporting and payment of the gasoline and special fuels taxes as provided by law.

- (4) The petroleum environmental assurance fee shall be set at one and four-tenths cent (\$.014) for each gallon. Four-tenths of a cent (\$.004) per gallon shall be deposited in the financial responsibility account and one cent (\$.01) shall be deposited in the petroleum storage tank account.
- (5) Within thirty (30) days of the close of fiscal year 2001-2002 and each fiscal year thereafter, the state budget director shall review the balance of each account to determine if a surplus exists. "Surplus" means funds in excess of the amounts necessary to satisfy the obligations in each account for all eligible facilities, to satisfy future liabilities and expenses necessary to operate each account, and to maintain an appropriate reserve in the financial responsibility account to demonstrate financial responsibility and compensate for third-party claims. The state budget director shall report the determination to the Interim Joint Committee on Appropriations and Revenue. After a determination that a surplus exists, the surplus shall be transferred to a restricted account and retained until appropriated by the General Assembly.
- (6) All provisions of law related to the Department of Revenue's administration and enforcement of the gasoline and special fuels tax and all other powers generally conveyed to the Department of Revenue by the Kentucky Revised Statutes for the assessment and collection of taxes shall apply with regard to the fee levied by KRS 224.60-105 to 224.60-160.
- (7) The Department of Revenue shall refund the fee imposed by KRS 224.60-145(1) to any person who paid the fee provided they are entitled to a refund of motor fuel tax under KRS 138.344 to KRS 138.355 and to any person who paid the fee on transactions exempted under KRS 224.60-145(2).
- (8) Notwithstanding any other provisions of KRS 65.180, 65.182, 68.600 to 68.606, 139.470, 183.165, 224.60-115, 224.60-130, 224.60-137, 224.60-140, 224.60-142, and this section to the contrary, the small operator assistance account and small operator tank removal account established under KRS 224.60-130 shall continue in effect until **July 15, 2016**~~July 15, 2013~~, and thereafter until all eligible claims related to tanks registered by that date are resolved, and sufficient money shall be allocated to and maintained in that account to assure prompt payment of all eligible claims, and to provide for removal of tanks for eligible owners and operators as directed by this chapter.

Signed by Governor March 21, 2013.

CHAPTER 48

(HB 145)

AN ACT relating to civil actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 413.140 is amended to read as follows:

- (1) The following actions shall be commenced within one (1) year after the cause of action accrued:
 - (a) An action for an injury to the person of the plaintiff, or of her husband, his wife, child, ward, apprentice, or servant;
 - (b) An action for injuries to persons, cattle, or other livestock by railroads or other corporations, with the exception of hospitals licensed pursuant to KRS Chapter 216;
 - (c) An action for malicious prosecution, conspiracy, arrest, seduction, criminal conversation, or breach of promise of marriage;
 - (d) An action for libel or slander;
 - (e) An action against a physician, surgeon, dentist, or hospital licensed pursuant to KRS Chapter 216, for negligence or malpractice;
 - (f) A civil action, arising out of any act or omission in rendering, or failing to render, professional services for others, whether brought in tort or contract, against a real estate appraiser holding a certificate or license issued under KRS Chapter 324A;
 - (g) An action for the escape of a prisoner, arrested or imprisoned on civil process;

- (h) An action for the recovery of usury paid for the loan or forbearance of money or other thing, against the loaner or forbearer or assignee of either;
 - (i) An action for the recovery of stolen property, by the owner thereof against any person having the same in his possession;
 - (j) An action for the recovery of damages or the value of stolen property, against the thief or any accessory;~~and~~
 - (k) An action arising out of a detention facility disciplinary proceeding, whether based upon state or federal law; *and*
 - (l) An action for damages arising out of a deficiency, defect, omission, error, or miscalculation in any survey or plat, whether brought in tort or contract, against a licensed professional land surveyor holding a license under KRS Chapter 322.*
- (2) In respect to the action referred to in paragraph (e) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time the injury is first discovered or in the exercise of reasonable care should have been discovered; provided that such action shall be commenced within five (5) years from the date on which the alleged negligent act or omission is said to have occurred.
 - (3) In respect to the action referred to in paragraph (f) *or (l)* of subsection (1) of this section, the cause of action shall be deemed to accrue within one (1) year from the date of the occurrence or from the date when the cause of action was, or reasonably should have been, discovered by the party injured.
 - (4) In respect to the action referred to in paragraph (h) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time of payment. This limitation shall apply to all payments made on all demands, whether evidenced by writing or existing only in parol.
 - (5) In respect to the action referred to in paragraph (i) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time the property is found by its owner.
 - (6) In respect to the action referred to in paragraph (j) of subsection (1) of this section, the cause of action shall be deemed to accrue at the time of discovery of the liability.
 - (7) In respect to the action referred to in paragraph (k) of subsection (1) of this section, the cause of action shall be deemed to accrue on the date an appeal of the disciplinary proceeding is decided by the institutional warden.

Signed by Governor March 21, 2013.

CHAPTER 49

(HB 148)

AN ACT relating to the Kentucky Wood Products Competitiveness Corporation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 42.4592 is amended to read as follows:

- (1) Moneys remaining in the local government economic development fund following the transfer of moneys to the local government economic assistance fund provided for in KRS 42.4585~~and following the transfer of moneys to the secondary wood products development fund provided for in KRS 42.4586~~ shall be allocated as follows:
 - (a) Thirty-three and one-third percent (33-1/3%) shall be allocated to each coal producing county on the basis of the ratio of total tax collected in the current and preceding four (4) years on coal severed in each respective county to the total tax collected statewide in the current and four (4) preceding years.
 - (b) Thirty-three and one-third percent (33-1/3%) shall be allocated quarterly to each coal-producing county on the basis of the following factors, which shall be computed for the current and four (4) preceding years, and which shall be equally weighted:
 - 1. Percentage of employment in mining in relation to total employment in the respective county;

2. Percentage of earnings from mining in relation to total earnings in the respective county; and
 3. Surplus labor rate; ~~and~~
- (c) Thirty-three and one-third percent (33-1/3%) shall be reserved for expenditure for industrial development projects benefiting two (2) or more coal-producing counties. For purposes of this paragraph, "coal-producing county" shall mean a county which has produced coal in the current or any one of the four (4) preceding years.
- (2) (a) For purposes of paragraph (b) of subsection (1) of this section, "percentage of employment in mining" and "percentage of earnings from mining" shall be the percentages published for the latest available five (5) year period by the Bureau of Economic Analysis in the United States Department of Commerce; "surplus labor rate" shall be the rate published for the latest available five (5) year period by the Office of Employment and Training of the Department of Workforce Investment in the Education and Workforce Development Cabinet, as provided in paragraph (b) of this subsection.
- (b) 1. Each year the Office of Employment and Training shall estimate surplus labor for each county and for the Commonwealth and shall annually publish an estimate of the surplus labor rate for each county and the Commonwealth.
2. The estimate of surplus labor for each county and for the Commonwealth shall be made using the best practical method available at the time the estimates are made. In determining the method to be adopted, the Office of Employment and Training may consult with knowledgeable individuals, including but not limited to the Office of the United States Bureau of Labor Statistics, state and national researchers, state and local officials, and staff of the Legislative Research Commission. The description of the method used to estimate surplus labor shall be reported in each annual publication provided for in subparagraph 1. of this paragraph.
3. For purposes of this section, "surplus labor" means the total number of residents who can be classified as unemployed or as discouraged workers, and "surplus labor rate" means the percentage of the potential civilian labor force which is surplus labor.
- (3) The funds allocated under the provisions of paragraphs (a) and (b) of subsection (1) of this section shall retain their identity with respect to the county to which they are attributable, and a separate accounting of available moneys within the fund shall be maintained for the respective counties. Accounting for funds allocated under the provisions of this section shall be by the Department for Local Government.

➔Section 2. KRS 154.20-170 is amended to read as follows:

- (1) Industrial entities, agricultural business entities, business enterprises, or private sector firms which are members of a business network within the meaning of KRS 154.01-010 in a targeted industrial sector as set forth in the state strategic plan for economic development as prescribed in KRS 154.10-120, and businesses that compose the secondary wood products industry as defined in KRS 154.47-005(9)~~{(10)}~~, shall be given priority consideration under state economic development loan, grant, and incentive programs administered by the Kentucky Economic Development Finance Authority.
- (2) Notwithstanding the provisions of subsection (1) of this section, highest priority consideration under state economic development loan, grant, and incentive programs administered by the authority shall be given to those projects that are located in counties of Kentucky which have had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the Office of Employment and Training within the Department of Workforce Investment in the Education and Workforce Development Cabinet.

➔Section 3. KRS 154.47-005 is amended to read as follows:

As used in this subchapter, unless the context clearly indicates otherwise:

- (1) "Approved network" means a flexible manufacturing network approved by the ~~cabinet~~~~board~~ in accordance with KRS 154.47-040;
- (2) "**Cabinet**" means the **Cabinet for Economic Development**~~["Board" means the governing body of the Kentucky Wood Products Competitiveness Corporation];~~
- (3) "Center" means the Quicksand Wood Utilization Center located in Breathitt County, Kentucky;

- (4) "Certified tree farmer" means a person whose tree farm is certified by the Kentucky Tree Farm Committee and approved by the American Forest Foundation;
- (5) ~~["Corporation" means the Kentucky Wood Products Competitiveness Corporation as created in KRS 154.47-015;~~
- ~~(6) —]~~"Council" means the Kentucky Forest Products Council as created in KRS 154.47-110;
- ~~(6)~~~~(7)~~ "Flexible manufacturing network" or "network" means an affiliation of secondary wood products businesses as provided by KRS 154.47-040;
- ~~(7)~~~~(8)~~ "Forest steward" means a person whose forest property is certified as a stewardship forest and approved by the Division of Forestry of the Department for Natural Resources;
- ~~(8)~~~~(9)~~ "Procurement area" means an area specified by the applicant in a radius of miles from the applicant's site of operations from which the applicant acquires raw wood products;
- ~~(9)~~~~(10)~~ "Secondary wood products industry" means businesses that compose that segment of the forest products industry that manufacture, assemble, process, or produce wood into a finished or semifinished product; however, the "secondary wood products industry" does not include primary wood products operations such as logging, sawmilling, chip milling, veneer milling, or pulp milling. Businesses that include both primary and secondary wood products operations are deemed to be within the secondary wood products industry only in regard to their secondary wood products operations; and
- ~~(10)~~~~(11)~~ "Wood industry hub" or "hub" means a system in which the technical and workforce training needs of the secondary wood products industry are integrated.

➔Section 4. KRS 154.47-040 is amended to read as follows:

- (1) Three (3) or more secondary wood products businesses may establish a flexible manufacturing network for the purposes deemed appropriate by those businesses upon application to the ~~cabinet~~~~[Cabinet for Economic Development]~~, and, if approved, may become eligible for business incentives and priority consideration for state economic development loans and grants~~[as provided in KRS 154.47-015 to 154.47-070 and KRS 42.455 and as may be otherwise provided by law].~~
- (2) ~~[The Kentucky Wood Products Competitiveness Corporation, in cooperation and in conjunction with the Cabinet for Economic Development, shall assist with the development and promotion of secondary wood industry business networks and projects. The corporation shall provide development and promotion advice and assistance that seeks to provide a formalized, collaborative mechanism that will allow three (3) or more secondary wood industry businesses to: pool expertise; improve technology, develop new markets, improve employee skills, increase capitalization, improve product and production quality, and develop a system of collective intelligence among participating entities.~~
- ~~(3) —~~The corporation shall assemble and keep in its office ~~]Information concerning the various secondary wood products requirements of state capital construction and renovation projects **shall be maintained by the Finance and Administration Cabinet's Department for Facilities and Support Services.** This information shall be made available to any secondary wood industry business that seeks business with state agencies.~~[The corporation shall assist secondary wood industry businesses and business networks with the collaborative design and product development specifications of state capital construction and renovation projects.~~~~
- ~~(4) —]~~Applications of secondary wood products businesses as prescribed in subsection (1) of this section shall ~~not~~ ~~]~~be approved **or disapproved** by the cabinet~~[unless first reviewed by the board. The board shall upon receipt of an application complete its review and take action thereon within ninety (90) days from the date of receipt].~~
- ~~(3)~~~~(5)~~ Any business firm that is a member of an approved network as set forth in this section shall be eligible for priority consideration for financial incentives, including loans, grants, and tax credits programs under the authority of the Kentucky Economic Development Finance Authority as set forth in this chapter.
- ~~(4)~~~~(6)~~ Nothing contained in this section shall be so construed as waiving standard eligibility requirements and sound business qualifications applicable to any business making an application to the Kentucky Economic Development Finance Authority for state financial assistance programs under its authority and responsibility.

➔Section 5. KRS 154.47-050 is amended to read as follows:

The ~~[Kentucky Wood Products Competitiveness Corporation shall work in cooperation with the]~~Kentucky Department of Parks of the Tourism, Arts and Heritage Cabinet **shall whenever practicable**~~[to]~~:

- (1) Develop and design Kentucky-made furniture for use in state parks;
- (2) Make state parks facilities living showrooms for Kentucky furniture and other wood products; and
- (3) Establish retail showrooms where Kentucky-made furniture and other wood products can be displayed for sale to, or order by, park visitors.

➔Section 6. KRS 154.47-055 is amended to read as follows:

- (1) Notwithstanding the provisions of KRS Chapter 151B, the University of Kentucky, Eastern Kentucky University, Morehead State University, and the Kentucky Community and Technical College System in conjunction with the *Department of Workforce Investment in the Education and Workforce Development Cabinet* ~~may~~~~corporation shall~~ develop an integrated program and curricula for workforce training in the area of secondary wood products manufacturing, including nondegree and degree courses of study. ~~Neither the corporation nor the Cabinet for Economic Development or any of its agencies or instrumentalities shall provide funding for training, education, or any other purpose, to any state agency or institution which provides workforce training or education relating to wood products manufacturing, unless the agency or institution complies with the integrated program and curricula developed in accordance with this section.~~
- (2) ~~[No state agency provider of workforce training shall reduce existing funding for wood industry related training to offset funding received from the corporation under the integrated training program.~~
- (3) ~~]~~The integrated workforce training program and the curricula shall be designed in a manner that shall provide postsecondary, nondegree and degree level students with the contemporary skills needed for employment in the secondary wood industry.

➔Section 7. KRS 154.47-060 is amended to read as follows:

- (1) ~~[Notwithstanding the provisions of KRS 151B, the corporation shall contract with]~~The University of Kentucky College of Agriculture ~~may~~~~to~~ operate the Quicksand Wood Utilization Center, which is located in Breathitt County at the Quicksand Substation of the College of Agriculture of the University of Kentucky, as a hub for the expansion of the secondary wood products industry. The center shall, *if utilized as a secondary wood products training center*, ~~be operated as provided for in the contract to~~ develop and further workforce training, management skills, technology transfer, and collaborative design and product development mechanisms and processes associated with the secondary wood products industry. ~~The contract may contain additional terms and conditions that the parties agree upon but shall mandate the following:~~
 - (a) ~~The corporation, utilizing facilities of the Quicksand Wood Utilization Center, shall adopt and implement the workforce training program as set forth in KRS 154.47-055. The curriculum, instructional methods, materials and equipment adopted by the center shall be subject to the approval of the board of the Kentucky Wood Products Competitiveness Corporation. The curriculum shall include, but not be limited to, contemporary course areas that center upon: methods of stock preparation, the manufacture of sheet materials, computer-assisted design and drafting, computer-assisted manufacturing, telecommunications training, worker safety, environmental laws and regulations, and contemporary and emerging wood industry technology and manufacturing systems.~~
 - (b) ~~The corporation, utilizing facilities of the Quicksand Wood Utilization Center, shall develop and implement management training programs and seminars that are appropriate for providing post-secondary, nondegree students with contemporary skills needed for the operation of secondary wood manufacturing businesses. The center shall provide training to students who are eighteen (18) years of age or older and who have not received a high school diploma or its equivalent, but a student shall be required to enroll in a general equivalency diploma program or remedial education program if the student has demonstrated a lack of basic literacy and mathematical skills. The program and curriculum shall be a part of the integrated program and curriculum developed in accordance with KRS 154.47-055. The curriculum and seminars shall include, but not be limited to, contemporary course areas that center upon: product design and engineering, market development, manufacturing systems and best manufacturing practices, telecommunications, quality controls, technology interface, computer assisted design and manufacturing, worker safety, environmental laws and regulations, and new or emerging technology and manufacturing systems.~~
 - (c) ~~The corporation, utilizing facilities of the Quicksand Wood Utilization Center, shall provide to secondary wood products businesses technical advice and assistance upon matters relating to contemporary or emerging wood industry technology, product design and engineering, manufacturing systems and best manufacturing practices, and technology transfer. The center shall be responsible for~~

~~monitoring the various activities of private sector firms that are involved in the development and manufacture of nonwood industry technology and manufacturing systems, and shall determine if this technology and manufacturing systems may be applied effectively to the secondary wood industry. Where the effective application of nonwood industry technology is found, the center shall provide advice and assistance to secondary wood industry businesses on effective technology transfer.~~

- ~~(2) The contract shall provide for the University of Kentucky to continue its existing programs, including forestry, at the center and shall require the College of Agriculture to continue its existing funding for the center.~~
- ~~(3) The contract shall provide for the utilization of the center by participants and providers in the integrated workforce training program as specified in the training program and curriculum developed in accordance with KRS 154.47-055.]~~
- ~~(2)(4)~~ The Quicksand Wood Utilization Center shall serve as a model for the development of additional hubs in other parts of the state.
- ~~(3)(5)~~ The *cabinet*~~[corporation]~~, utilizing facilities of the Quicksand Wood Utilization Center, may conduct demonstration projects at the center, and may provide assistance to rural development organizations by producing building materials, furniture, and other wood products for display and sale at area showrooms and for use by rural development organizations in carrying out approved demonstration projects.

➔Section 8. KRS 154.47-065 is amended to read as follows:

- (1) The *cabinet*~~[Kentucky Wood Products Competitiveness Corporation]~~, in cooperation with the Kentucky Division of Forestry~~[and the Cabinet for Economic Development]~~, *may*~~[shall]~~ establish objective benchmarks to measure the performance of Kentucky's forest industries and secondary wood products manufacturers. Criteria used in establishing the benchmarks *may*~~[shall]~~ include~~[,]~~ but *are* not ~~[be]~~ limited to:
- (a) Use of the statistical information commonly provided by governmental agencies, or specific data gathered by authorization of the *cabinet*~~[board of the Kentucky Wood Products Competitiveness Corporation]~~;
 - (b) Comparison of regions and areas within the Commonwealth;
 - (c) Comparison of Kentucky to other states; and
 - (d) Inclusion of measures of income, earnings, and employment.
- (2) The ~~[Kentucky Wood Products Competitiveness Corporation, in cooperation with the]~~Division of Forestry, *with assistance from*~~[and]~~ the Cabinet for Economic Development, *may*~~[shall]~~ monitor changes in patterns of wood utilization. Information used in determining changes in wood utilization may include: time-series data on the amount of raw timber shipped out of the state in relation to the amount of timber harvested in the state; time-series data on the number of persons employed in the primary and secondary wood products sectors; and time-series data on value-added measures of Kentucky's forest products. This information *may*~~[shall]~~ be collected and maintained and *may*~~[shall]~~ be used to monitor the development of the state's secondary wood industry.

➔Section 9. KRS 154.47-075 is amended to read as follows:

- (1) The Kentucky Division of Forestry shall develop and implement a program to provide training and assistance to private woodland owners in best management practices of forest development and sustainability. The training and assistance program shall provide advice and assistance in matters relating to productivity, management priorities, stewardship, planning, timber quality, forest improvement, and proper ecological management.
- (2) The ~~[board, in cooperation with the Kentucky Division of Forestry, the]~~Labor Cabinet, *the Division of Forestry*, and representatives from the University of Kentucky, Eastern Kentucky University, and Morehead State University, shall develop and implement a program to provide training and assistance in the area of worker safety for both the primary and secondary wood industry.

➔Section 10. The following KRS sections are repealed:

42.4586 Transfers from local government economic development fund to secondary wood products development fund.

154.47-015 Kentucky Wood Products Competitiveness Corporation -- Governing board.

154.47-020 Meetings of board -- Compensation -- Officers.

- 154.47-025 Functions, duties, and responsibilities of board -- Authority for administrative regulations.
- 154.47-030 Board's authority to contract.
- 154.47-035 Biennial status reports -- Recommendation to General Assembly on hubs.
- 154.47-045 Procedures for state agencies with respect to capital construction or renovation projects involving secondary wood products -- Corporation's role in bid solicitations.
- 154.47-070 Secondary wood products development fund.

➔Section 11. The Kentucky Wood Products Competitiveness Corporation is hereby abolished. Any records, documents, assets, and outstanding liabilities shall be transferred to the Cabinet for Economic Development.

Signed by Governor March 21, 2013.

CHAPTER 50

(HB 150)

AN ACT relating to fish and wildlife.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 150.175 is amended to read as follows:

The kinds of licenses and tags authorized by this chapter, and the acts authorized to be performed under the licenses and tags, subject to the other provisions of this chapter and subject to administrative regulations promulgated under this chapter, shall be as follows:

- (1) Statewide resident sport fishing license, which authorizes the holder to take fishes by angling, or take crayfish by a minnow seine, or by hand, to take minnows by the use of a minnow seine, minnow trap, or dip net, or to take fishes by grabbing, giggering, snagging, snaring, jugging, and bow and arrow, and to take frogs and turtles from any waters in any county of this state open for such purposes and subject to the limitations in this chapter and additional limitations that the department may from time to time prescribe. This license shall not authorize the holder to sell fish;
- (2) A short-term sport fishing license, which authorizes the holder to perform all acts authorized by a statewide sport fishing license and subject to the same limitations or prescribed administrative regulations. This license shall not authorize the holder to sell fish;
- (3) A resident commercial fishing license and a nonresident commercial fishing license, which authorize a holder to perform any act authorized by a sport fishing license and to take rough fishes from the waters of the state by the use of commercial fishing gear as prescribed by administrative regulation. The license shall also authorize the holder to sell rough fishes, other than those protected by administrative regulation;
- (4) A commercial fishing gear tag, which shall be attached to each piece of commercial fishing gear including hoop nets, slat traps, trotline, wing nets, and to each one hundred (100) feet of linear gear or portion thereof in use, including commercial seines, gill nets, or trammel nets. Commercial gear tags may be issued only to a person holding a resident or nonresident commercial fishing license;
- (5) Live fish and bait dealer's licenses, resident and nonresident, which authorize the holder to sell bait and live fish as may be prescribed by administrative regulation;
- (6) Musseling licenses, resident and nonresident, which authorize the holder to take mussels for commercial purposes as may be prescribed by administrative regulation;
- (7) A statewide resident hunting license, which authorizes the holder to take or pursue wild animals, wild birds, frogs, and turtles with gun, bow and arrow, dog, or falcon, or to participate in a fox-hunting party engaged in the hunting or pursuing of foxes with dogs for sport, according to the provisions of the laws and administrative regulations of the department;
- (8) A junior statewide hunting license, which may be issued to a person before he or she has reached his or her sixteenth birthday, and which authorizes the holder to exercise all the privileges authorized by a statewide

- hunting license. No junior hunting license shall be issued without the written permission of parent, guardian, or person having custody of the person under sixteen (16) years of age;
- (9) Trapping licenses, resident and nonresident, which authorize the holder to take wild animals by trapping upon his or her own lands or upon the lands of another person, if the holder of the license has first obtained oral or written consent as provided in KRS 150.092 and administrative regulation;
 - (10) A taxidermist *license*~~[licenses, commercial and noncommercial]~~, which *authorizes*~~[authorize]~~ the holder to engage in the act of preparing, stuffing, and mounting the skins of wildlife;
 - (11) A commercial guide's license, which authorizes the holder to guide hunting and fishing parties according to the provisions of the laws and administrative regulations of the department;
 - (12) Fur buyer's licenses, resident and nonresident, which authorize the holder to buy raw furs from licensed trappers and hunters and to sell raw furs so purchased. Applicants for the license shall state the number of premises to be used and shall display at each a copy of the license as furnished by the department, except that the commissioner may limit the number of copies furnished and may revoke the license for violation;
 - (13) A fur processor's license, which may be issued only to a resident, a partnership, firm, or corporation of this state and which authorizes the holder to buy raw furs when in legal possession for processing, manufacture, or retention in cold storage or for resale;
 - (14) A nonresident sport fishing license, which authorizes the holder to perform any act authorized by a resident statewide sport fishing license. This license shall not authorize the holder to sell fish;
 - (15) A nonresident annual hunting license, which authorizes the holder to perform any act authorized by a resident statewide hunting license;
 - (16) Shoot-to-retrieve field trial permits, four (4) day and single day, which authorize a permit holder to conduct a shoot-to-retrieve field trial on private or government-owned lands. With a four (4) day permit, all participants, whether residents or nonresidents, shall not be required to possess any other license to participate in the permitted field trial, and the permit shall expire four (4) days after the date on which the field trial began. With the single day permit, the permit is valid for one (1) day and all participants shall have a valid resident or nonresident annual Kentucky hunting license. A permit is not required to conduct a shoot-to-retrieve field trial on a licensed shooting preserve; however, all participants that take or attempt to take game shall have in their possession a resident or nonresident annual Kentucky hunting license;
 - (17) Game permits and junior game permits, which, in combination with a valid statewide hunting license or a valid junior statewide hunting license, authorize the holder to take or pursue the specified game species in any designated open area of this state, during the open season and according to the provisions of the laws and administrative regulations governing the hunting;
 - (18) A combination hunting and fishing license, which authorizes only resident holders to perform all acts valid under either a sport fishing or hunting license;
 - (19) A trout permit, which in combination with a valid statewide fishing license, authorizes the holder to take trout by angling or as may be prescribed by administrative regulation;
 - (20) A commercial waterfowl permit, which authorizes the holder to establish and operate a commercial waterfowl hunting preserve;
 - (21) A short-term hunting license, which authorizes the holder to perform all acts authorized by a statewide hunting license according to the provisions of the laws and administrative regulations of the department;
 - (22) A joint statewide resident sport fishing license issued to a husband and wife which authorizes them to take fish as provided in subsection (1) of this section. The license fee for this joint license shall be ten percent (10%) less than the license fee set by the commission for two (2) statewide resident sport fishing licenses;
 - (23) A Kentucky *migratory bird*~~[waterfowl]~~ permit, which in combination with a valid statewide hunting license and compliance with applicable federal law, authorizes the holder to take or pursue waterfowl and migratory shore or upland game birds;
 - (24) A pay lake license which authorizes the holder to operate privately owned impounded waters for fishing purposes for which a fee is charged;
 - (25) ~~[A migratory game bird permit, which, in combination with a statewide hunting license and compliance with applicable federal law, allows the holder to take migratory shore or upland game birds;~~

~~(26)~~ A ~~senior~~~~[senior/disabled]~~ combination hunting and fishing license, which authorizes the holder to perform all acts valid under a sport fishing license, a sport hunting license, or a state permit to take deer, turkey, trout, waterfowl, or migratory shore or upland game birds, and which shall be available to a Kentucky resident who is ~~sixty-five (65) years of age or older~~;

~~(a)~~ Sixty five (65) years of age or older; or

~~(b)~~ An American veteran at least fifty percent (50%) disabled as a result of a service-connected disability; or

~~(c)~~ Declared permanently and totally disabled by the Federal Social Security Administration, the United States Office of Personnel Management, the Teachers' Retirement System of the State of Kentucky, the Department of Workers' Claims, or its equivalent from another state, or the United States Railroad Retirement Board.

The ~~senior~~~~[senior/disabled]~~ combination license shall not be valid unless the holder carries proof of residency and proof of age ~~or disability~~, as the department may require by administrative regulation, on his or her person while performing an act authorized by the license;

(26) *A senior lifetime combination hunting and fishing license, which remains valid until the death of the holder and authorizes the holder to perform all acts valid under a sport fishing license, a sport hunting license, and a state permit to take deer, turkey, trout, waterfowl, and migratory shore and upland game birds, and which shall be available to a Kentucky resident who is sixty-five (65) years of age or older;*

(27) *A disabled combination hunting and fishing license, which authorizes the holder to perform all acts valid under a sport fishing license, a sport hunting license, and a state permit to take deer, turkey, trout, waterfowl, and migratory shore and upland game birds, and which shall be available to a Kentucky resident who is:*

(a) An American veteran at least fifty percent (50%) disabled as a result of a service-connected disability; or

(b) Declared permanently and totally disabled by the Federal Social Security Administration, the United States Office of Personnel Management, the Kentucky Teachers' Retirement System, the Department of Workers' Claims, or its equivalent from another state, or the United States Railroad Retirement Board.

The disabled combination license shall not be valid unless the holder carries proof of residency and proof of disability, as the department may require by administrative regulation, on his or her person while performing an act authorized by the license;

(28) A sportsman's license for residents that includes an annual hunting and fishing license and such permits as allowed by administrative regulations promulgated by the department; and

~~(29)~~~~(28)~~ A special license for residents and nonresidents for the purpose of hunting on licensed shooting areas. This license shall be valid only for the shooting areas for which it was issued and shall remain in effect for one (1) year. If the hunter holds either a nonresident or resident statewide hunting license for the current year, the special license shall not be required.

The department may offer multi-year licenses or permits for any of the annual licenses or permits authorized in subsections (1), (7), (9), (14), (15), (17), (18), (19), (23), and (28) of this section. A multi-year license or permit shall authorize the holder to perform all acts authorized by the same license or permit if purchased annually and shall be issued in accordance with the provisions of this chapter and the administrative regulations promulgated hereunder. Any multi-year licenses or permits offered by the department relating to the annual licenses or permits authorized in subsections (1), (7), (9), (14), (15), (17), (18), (19), (23), and (28) of this section shall be implemented by administrative regulation and may be discontinued at any time.

➔Section 2. KRS 150.603 is amended to read as follows:

(1) Any person required to possess a hunting license under the provisions of KRS 150.170, except children under sixteen (16) years of age, taking or attempting to take waterfowl within the state shall, in addition to the appropriate hunting license, possess a Kentucky *migratory bird*~~[waterfowl]~~ permit. The permit shall be carried while hunting waterfowl.

(2) Any person required to possess a hunting license under the provisions of KRS 150.170, except children under sixteen (16) years of age, taking or attempting to take migratory shore or upland game birds within the state

shall, in addition to the appropriate hunting license, possess ~~either a Kentucky waterfowl permit or~~ a Kentucky migratory ~~game~~ bird permit. The permit shall be carried while hunting migratory shore or upland game birds.

- (3) The Fish and Wildlife Commission shall administer all revenues generated by the sale of the permits. The revenue from the sale of Kentucky *migratory bird* ~~waterfowl~~ permits shall be expended for waterfowl projects for the purpose of protecting and propagating migratory waterfowl and for the development, restoration, maintenance, and preservation of wetlands within the state. The intent of this section is to expand waterfowl research and management and increase waterfowl populations in the state without detracting from other programs. The expenditures of funds generated under the provisions of this section shall be included in the annual report provided for in KRS 150.061.

➔Section 3. The following KRS section is repealed:

150.605 Contract for commissioning painting to be used as state waterfowl stamp -- Use of revenue from sale of painting.

Signed by Governor March 21, 2013.

CHAPTER 51

(HB 153)

AN ACT relating to barbers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 317.410 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) A "barber" is any person who engages in the practice of "barbering" for the public generally or for consideration;
- (2) "Barbering" is the practice upon the human neck and head, principally of shaving or trimming the beard or cutting the hair, but includes also:
 - (a) Giving facial and scalp massage or treatments with oils, creams, lotions, or other preparations, either by hand or any contrivance;
 - (b) Singeing, shampooing, pressing, arranging, dressing, or dyeing the hair or applying hair tonics; and
 - (c) Applying to the neck or head cosmetics, lotions, powders, oils, clays, or other preparations;
- (3) "Barber pole" means a cylinder or pole with alternating stripes of any combination, including but not limited to red and white, or red, white, and blue, which run diagonally along the length of the pole;
- (4) "Barber school" or "school of barbering" means an operation, place, or establishment of whatsoever kind or form in or through which persons are trained or taught the practice of barbering;
- (5) "Barber shop" is any establishment of whatsoever kind in which the practice of barbering is conducted for the general public or for consideration;
- (6) "Board" means the Kentucky Board of Barbering;
- (7) "Independent contract owner" means any barber licensed under this chapter who leases or rents space in a barber shop ~~[- No apprentice to a barber shall be permitted to act as an independent contract owner];~~ and
- (8) "Lapse fees" means the annual renewal license fee which would have been paid for the period during which a license has lapsed.

➔Section 2. KRS 317.420 is amended to read as follows:

- (1) No person shall engage in the practice of "barbering" for other than cosmetic purposes nor shall any person engage in barbering for the treatment of physical or mental ailments, except that the provisions of this chapter shall not apply to:

- (a) Persons authorized by the law of this state to practice medicine, chiropraxy, optometry, dentistry, chiropractic, nursing, or embalming when incidental practices of barbering are performed by them in the normal course of the practice of their profession;
 - (b) Commissioned medical or surgical personnel of the United States Army, Navy, Air Force, or Marine Hospital Service performing incidental practices of barbering in the course of their duties; or
 - (c) Barbering services performed at an institution operated by or under contract to the Department of Corrections.
- (2) Except as provided in subsection (1) of this section, no person shall engage in the practice of barbering for the public generally or for consideration without the appropriate license required by this chapter.
- (3) No person, unless duly and properly licensed pursuant to this chapter, shall:
- (a) Teach barbering;
 - (b) Operate a barber shop;
 - (c) ~~Engage in a barber apprenticeship;~~
 - ~~(d)~~ Conduct or operate a school for barbers; or
 - ~~(d)~~~~(e)~~ Lease or rent booth space as an independent contract owner.
- (4) No person shall aid or abet any person in violating the provisions of this section, nor shall any person engage or employ for consideration any person for the performance of any practice licensed by this chapter unless the person to perform such practice holds and displays the appropriate license therefor.
- (5) Except as provided in this chapter, no person or business shall:
- (a) Advertise barbering services, unless the person or business and the personnel it employs are licensed under this chapter; or
 - (b) Use or display a barber pole for the purpose of advertising barbering services to the public unless it:
 - 1. Has a barber shop license; and
 - 2. Employs a barber licensed under this chapter.

➔Section 3. KRS 317.430 is amended to read as follows:

- (1) There is hereby created an independent agency of the state government to be known as the Kentucky Board of Barbering, which shall have complete supervision over the administration of the provisions of this chapter relating to barbers, barbering, barber shops, independent contract owners, barber schools, **and** the teaching of barbering~~, and barber apprenticeship~~.
- (2) The Kentucky Board of Barbering, hereinafter referred to as the barber board or board, shall be composed of five (5) members appointed by the Governor. Four (4) members shall be barbers holding a valid license and practicing in Kentucky. One (1) member shall be a citizen at large who is not associated with or financially interested in barbering. At all times in the filling of vacancies of membership on the barber board, this balance of representation shall be maintained.
- (3) The two (2) members appointed to fill the terms beginning on February 1, 2008, shall serve until February 1, 2011, and the three (3) members appointed to fill the terms beginning on February 1, 2007, shall serve until February 1, 2010. All subsequent appointments shall be for a term of three (3) years, with terms ending on February 1.
- (4) The Governor shall not remove any member of the barber board except for cause.
- (5) The barber board shall elect from its members one (1) to serve as chairman, one (1) to serve as vice chairman, and a third to serve as secretary.
- (6) Three (3) members shall constitute a quorum for the transaction of business.
- (7) In addition to the other qualifications specified in this section, barber members of the barber board shall be at least twenty-three (23) years of age, citizens of the United States, residents of Kentucky, and must have engaged in the practice of barbering in this state for a period of at least five (5) years.

- (8) No member of the barber board shall be financially interested in, or have any financial connection with, any barber or cosmetology school, wholesale cosmetic or barber supply or equipment business, nor shall any member of the barber board teach barbering, cosmetology, or manicuring for monetary considerations.
- (9) Each member of the barber board shall receive a compensation of one hundred dollars (\$100) per day for each day of attendance at a meeting of the board, and shall be reimbursed for necessary traveling expenses.
- (10) The board shall hold its meetings within the state and when deemed necessary by the board to discharge its duties.

➔Section 4. KRS 317.440 is amended to read as follows:

- (1) To protect the health and safety of the public or to protect the public against misrepresentation, deceit, or fraud in the practice or teaching of barbering, the board shall promulgate administrative regulations governing the:
 - (a) Location and housing of barber shops or schools;
 - (b) Quantity and quality of equipment, supplies, materials, records, and furnishings required in barber shops or schools;
 - (c) ~~Training and supervision of barber apprentices;~~
 - ~~(d) Qualifications of teachers of barbering;~~
 - ~~(d)(e)~~ Hours and courses of instruction at barber schools;
 - ~~(e)(f)~~ Examinations of applicants for barber~~, apprentice barber,~~ or teacher of barbering; and
 - ~~(f)(g)~~ Qualifications of independent contract owners.
- (2) The board shall establish fees by administrative regulation according to the schedules established in KRS 317.450.
- (3) Administrative regulations pertaining to health and sanitation shall be approved by the Kentucky secretary for health and family services before becoming effective.

➔Section 5. KRS 317.450 is amended to read as follows:

- (1) (a) The board shall issue a **probationary** license to practice barbering to any person who:
 1. Is at least seventeen and one-half (17-1/2) years of age;
 2. Is of good moral character and temperate habit;
 3. Has **graduated from a licensed school of barbering**~~[acted as a licensed apprentice for at least nine (9) months under the immediate supervision of a licensed barber];~~
 4. Has satisfactorily passed the **probationary** examination prescribed by the barber board, **which shall include a practical assessment of the applicant's skills, including but not limited to a haircut and a chemical application**; and
 5. Has paid a fee not to exceed fifty dollars (\$50).
- (b) ***A barber shall serve a probationary period of six (6) months of continuous service from the effective date of the license issued pursuant to paragraph (a) of this subsection.***
- (c) ***In addition to the grounds for disciplinary action specified in KRS 317.590, the board may, during the probationary period, require a licensee to retake any part or all of the written or practical examination, or both.***
- (d) ***At the end of the probationary period, the board shall issue a license to practice barbering to a probationary licensee who has:***
 1. ***Satisfactorily passed the barber examination prescribed by the board by administrative regulations promulgated in accordance with KRS Chapter 13A; and***
 2. ***Complied with all other requirements of this subsection.***
- (e) The board may issue a barber license by endorsement to a resident of another state, district, or territory within the United States of America upon payment of a fee not to exceed two hundred fifty dollars (\$250) and upon submission of satisfactory evidence that the requirements for licensure in the other state are substantially equivalent to the requirements of this state at the time of application. In the

absence of the required equivalency, an applicant from another state, district, or territory within the United States of America, shall show proof of three (3) years or more experience immediately before making application and be currently licensed and in good standing with the state, district, or territory in which he or she is licensed. The board may also require an applicant under this section to pass a written and practical examination to establish equivalency.

- (2) ~~]~~The board shall issue a license to act as an apprentice to a barber to any person who:
- (a) ~~—~~ Is at least sixteen and one-half (16-1/2) years of age;
 - (b) ~~—~~ Is of good moral character and temperate habit;
 - (c) ~~—~~ Has graduated from high school or possesses a General Educational Development (GED) certificate;
 - (d) ~~—~~ Has graduated from an accredited or licensed school of barbering;
 - (e) ~~—~~ Has satisfactorily passed the examination prescribed by the barber board by promulgation of administrative regulations; and
 - (f) ~~—~~ Has paid a fee not to exceed fifty dollars (\$50).
- (3) ~~—~~]The board shall:
- (a) Issue a license to operate a barber shop to any barber licensed under the provisions of this chapter upon application and payment of a fee not to exceed fifty dollars (\$50);
 - (b) Refuse to issue the license upon a failure of the licensed barber to comply with the provisions of this chapter or the administrative regulations promulgated by the board;
 - (c) Allow the licensed owner of a barber shop, which is licensed under this chapter, to rent or lease space in his or her barber shop to an independent contract owner; and
 - (d) Allow an unlicensed owner of a barber shop, which is licensed under this chapter and managed by a barber licensed under this chapter, to rent or lease space in his or her barber shop to an independent contract owner.
- (3)~~(4)~~ The board shall issue a license to operate a school of barbering to any person, firm, or corporation who or which:
- (a) Applies for a license upon forms furnished by the board;
 - (b) Has the equipment and facilities that may be required by administrative regulations promulgated by the board;
 - (c) Has furnished adequate evidence to the board that:
 1. There is an intent to establish a bona fide school for the education and training of competent barbers; and
 2. A sufficient number of teachers licensed by the board will be employed to conduct the school, including at least one (1) teacher with a minimum of twelve (12) months' experience teaching in a barber school that includes administrative experience; and
 - (d) Pays a fee not to exceed one hundred fifty dollars (\$150).
- (4)~~(5)~~ The board shall issue a license to teach barbering to any person who:
- (a) Is of good moral character and temperate habit;
 - (b) Has graduated from high school, or possesses a General Educational Development (GED) certificate;
 - (c) Has been a licensed and practicing barber for at least eighteen (18) months;
 - (d) Has satisfactorily passed the examination prescribed by the board by promulgation of administrative regulations; and
 - (e) Has paid a fee not to exceed one hundred dollars (\$100).
- (5)~~(6)~~ The board shall issue a license to any barber who holds an independent contract owner's license who:
- (a) Is of good moral character and temperate habit;
 - (b) Has graduated from high school, or possesses a General Educational Development (GED) certificate;

- (c) Is a licensed and practicing barber under this chapter; and
 - (d) Has paid a fee not to exceed fifty dollars (\$50).
- (6)(7) Applications for examination required in this section shall be accompanied by an examination fee as follows:
- (a) Barber -- not to exceed **three hundred dollars (\$300); and**~~one hundred fifty dollars (\$150);~~
 - (b) ~~Apprentice to a barber -- not to exceed one hundred fifty dollars (\$150); and~~
 - ~~(e) --~~ Teaching barbering -- not to exceed one hundred fifty dollars (\$150).
- (7)(8) Licenses issued pursuant to this section shall expire on the first day of July next following the date of their issuance. Any license shall automatically be renewed by the board upon receipt of the required annual license fee no later than thirty-one (31) days after the expiration date if the applicant for renewal is otherwise in compliance with the provisions of this chapter and the administrative regulations of the board.
- (8)(9) The annual renewal license fee for each type of license renewal shall be as follows:
- (a) Barber -- not to exceed fifty dollars (\$50);
 - (b) ~~Apprentice to barber -- not to exceed fifty dollars (\$50);~~
 - ~~(e) --~~ Teacher of barbering -- not to exceed fifty dollars (\$50);
 - (c)(d) Barber shop -- not to exceed fifty dollars (\$50);
 - (d)(e) Barber school -- not to exceed one hundred fifty dollars (\$150); and
 - (e)(f) Independent contract owner -- not to exceed fifty dollars (\$50).
- (9)(10) Except as provided in subsection (7)(8) of this section, the fee for the renewal of an expired license, if the period of expiration does not exceed five (5) years, shall be as follows:
- (a) Barber -- not to exceed twenty-five dollars (\$25) plus lapse fees;
 - (b) ~~Apprentice -- not to exceed twenty five dollars (\$25) plus lapse fees;~~
 - ~~(e) --~~ Barber shop -- not to exceed twenty-five dollars (\$25) plus lapse fees;
 - (c)(d) Barber school -- not to exceed twenty-five dollars (\$25) plus lapse fees;
 - (d)(e) Teacher of barbering -- not to exceed twenty-five dollars (\$25) plus lapse fees; and
 - (e)(f) Independent contract owner -- not to exceed twenty-five dollars (\$25) plus lapse fees.

➔ Section 6. KRS 317.540 is amended to read as follows:

No license shall be renewed or issued by the barber board to any barber school, unless ~~the~~~~such~~ school provides:

- (1) As a prerequisite of graduation, ~~from a barber school~~ a prescribed course of instruction of not less than fifteen hundred (1,500) hours shall be given within a reasonable period with not more than eight (8) hours nor less than four (4) hours of instruction a day, exclusive of Sundays;
- (2) Courses of instruction in histology of the hair, skin, ~~nails,~~ muscles, and nerves of the face and neck; elementary chemistry with emphasis on sterilization and antiseptics; disease of the skin, hair, and glands; massaging and manipulating of the muscles of the upper body; cutting, shaving, arranging, dressing, coloring, bleaching, and tinting the hair and such other courses as may be prescribed by regulation of the board;
- (3) Such facilities, equipment, materials, and qualified teachers ~~and apprentice teachers~~ as may be required by rules and regulations of the board adopted pursuant to this chapter, but in no event shall any school have fewer than one (1) licensed teacher per twenty (20) students enrolled, or more than two (2) students per chair.

➔ Section 7. KRS 317.580 is amended to read as follows:

No barber, independent contract owner, *or* student ~~or apprentice~~ shall:

- (1) Knowingly continue to practice while he has an infectious or communicable disease;
- (2) Fail to provide the head rest of each chair with a relaundersed towel or a sheet of clean paper for each patron;
- (3) Fail to place around the patron's neck a strip of cotton, towel, or neck strip so that the haircloth does not come in contact with the nude skin of the patron's body;

- (4) Use on one (1) patron a towel that has been used upon another patron, unless the towel has been laundered; or
- (5) Use on any patron any razor, scissors, tweezers, comb, sachet, rubber disc or part of vibrator or other similar equipment or appliance that comes into contact with the head, face, hands, or neck of a patron, until the equipment or appliance has been immersed in boiling water for ten (10) minutes or in a sterilizing solution and placed in a wet or dry sterilizer until again used. Only such methods of sterilization as are bacteriologically effective and approved by the Department for Public Health shall be used.
- (6) Fail to wash his or her hands in a sink both before and after contact with each patron. Methods to sterilize hands that are bacteriologically effective as approved by the United States Food and Drug Administration's Food Code, Sections 2-301.11 through 2-304.11, shall also be recognized and used. Barber shop licenses issued after July 12, 2006, shall require that a sink with hot and cold running water be located in the room where barbering is done.

Signed by Governor March 21, 2013.

CHAPTER 52

(HB 172)

AN ACT relating to emergency anaphylaxis medications in schools.

WHEREAS, nearly 6 million American children have food allergies, more than 15 percent of school-aged children with food allergies have had a reaction in school, and many of these children are at risk of anaphylaxis, a systemic allergic reaction that can lead to death within minutes; and

WHEREAS, the National Institutes of Health recommends treating anaphylaxis immediately after symptoms begin with an intramuscular injection of epinephrine because delayed administration of epinephrine is the most predictive risk factor for prolonged or fatal anaphylaxis; and

WHEREAS, epinephrine auto-injectors are life-saving for individuals with severe allergic, anaphylactic reactions. Epinephrine is safe and easy to administer. It is dispensed in a pre-measured dosage through an auto-injector containing a spring-loaded needle that is enclosed before administration and automatically retracts following an injection; and

WHEREAS, the delay in the administration of epinephrine in a life-threatening anaphylactic reaction that may occur from storing the devices only in the front office, in the nurses' office, or when students are in other locations and their devices are in the classroom, could potentially lead to a fatal outcome for a student with anaphylaxis; and

WHEREAS, rapid administration of epinephrine is critical for effective treatment of anaphylaxis; and

WHEREAS, as Kentucky schools continue to improve their preparedness to address children who are at risk of having an anaphylactic reaction in the school environment or a school-sponsored activity, it is imperative that the epinephrine delivery devices be kept in the classroom, with the teachers, or with the students and in key locations in the school to serve as emergency backup for ready access, as these reactions may occur because of inadvertent ingestion or contact reaction of a food allergen;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 158.836 is amended to read as follows:

- (1) Upon fulfilling the requirements of KRS 158.834, a student with asthma or a student who is at risk of having anaphylaxis may possess and use medications to treat the asthma or anaphylaxis when at school, at a school-sponsored activity, under the supervision of school personnel, or before and after normal school activities while on school properties including school-sponsored child care or after-school programs.
- (2) ***A student who has a documented life-threatening allergy shall have:***
 - (a) ***An epinephrine auto-injector provided by his or her parent or guardian in his or her possession or in the possession of the school nurse, school administrator, or his or her designee in all school***

environments that the student may be in, including the classroom, the cafeteria, the school bus, and on field trips; and

- (b) *A written individual health care plan in place for the prevention and proactive management for the student in all school environments that the student may be in, including the classroom, the cafeteria, the school bus, and on field trips. The individual health care plan required under this paragraph may be incorporated in the student's individualized education program required under Pub. L. 94-142 or the student's 504 plan required under Pub. L. 93-112.*
- (3) (a) *Each school is encouraged to keep an epinephrine auto-injector in a minimum of two (2) locations in the school, including but not limited to the school office and the school cafeteria, so that epinephrine may be administered to any student believed to be having a life-threatening allergic or anaphylactic reaction. Schools electing to keep epinephrine auto-injectors shall maintain them in a secure, accessible, but unlocked location. The provisions of this paragraph shall apply to the extent that the epinephrine auto-injectors are donated to a school or a school has sufficient funding to purchase the epinephrine auto-injectors.*
- (b) *Each school electing to keep epinephrine auto-injectors shall implement policies and procedures for managing a student's life-threatening allergic reaction or anaphylactic reaction developed and approved by the local school board.*
- (c) *The Kentucky Department for Public Health shall develop clinical protocols in the school health section of the Core Clinical Service Guide manual that is maintained in the county or district public health department to address epinephrine auto-injectors kept by schools under this subsection and to advise on clinical administration of the epinephrine auto-injectors. The protocols shall be developed in collaboration with local health departments or local clinical providers and local schools and local school districts.*
- (4) *Any school employee authorized under KRS 156.502 to administer medication shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the administration or the assistance in the administration of epinephrine to any student believed in good faith to be having a life-threatening allergic or anaphylactic reaction.*

Signed by Governor March 21, 2013.

CHAPTER 53

(HB 176)

AN ACT relating to cosmetologists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 317A.155 is amended to read as follows:

- (1) As used in this section, "funeral establishment" means funeral establishment as defined in KRS 316.010.
- (2) Every person practicing as a cosmetologist, apprentice, or nail technician, with the exception of a nail technician or cosmetologist exclusively practicing manicuring in a licensed barber shop, shall practice in an establishment licensed by the board.
- (3) Notwithstanding the provisions in subsection (2) of this section, persons holding an active license from the board as a cosmetologist or nail technician and who practice in salons licensed by the board shall be permitted to render services for pay, free, or otherwise, to:
 - (a) *A person suffering from a terminal illness, whose death is anticipated, and who is receiving the services of a hospice program either at home or at a hospice inpatient unit; or*
 - (b) Persons who are deceased and in the care of funeral establishments.
- (4) Cosmetologists and nail technicians who render services authorized in subsection (3) of this section shall have the permission of the owner or administrator of the establishment where the services are rendered.

Signed by Governor March 21, 2013.

CHAPTER 54

(HB 179)

AN ACT reclassifying the City of Pembroke.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Pembroke, in Christian County, is such as to justify its being classified as a city of the fifth class;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. The City of Pembroke, in Christian County, is transferred from the sixth class to the fifth class of cities.

Signed by Governor March 21, 2013.

CHAPTER 55

(HB 180)

AN ACT relating to educator effectiveness and evaluation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 156.557 is amended to read as follows:

(1) *As used in this section:*

(a) *"Formative evaluation" means a continuous cycle of collecting evaluation information and providing feedback with suggestions regarding the certified employee's professional growth and performance;*

(b) *"Local formative growth measures" means measures that are rigorous and comparable across schools in a local district;*

(c) *"Student growth" means the change in student achievement for an individual student between two (2) or more points in time including achievement on state assessments required per KRS 158.6453; and*

(d) *"Summative evaluation" means the summary of, and conclusions from, the evaluation data, including formative evaluation data that:*

1. *Occur at the end of an evaluation cycle; and*

2. *Include a conference between the evaluator and the evaluated certified employee and a written evaluation report.*

(2) *Prior to the beginning of the 2014-2015 school year, the Kentucky Department of Education, in consultation with the Kentucky teacher and principal steering committees and other groups deemed appropriate by the commissioner of education, shall develop a framework for a statewide personnel evaluation system. The Kentucky Board of Education shall promulgate administrative regulations to establish a statewide professional growth and effectiveness system for the purposes of supporting and improving [standards for evaluation and support for improving] the performance of all certified school personnel. The system shall promote the continuous professional growth and development of skills needed to be a highly effective teacher or a highly effective administrator in a school or district. The Kentucky*

Board of Education shall include parent surveys as a source of data once a valid and reliable survey tool becomes available for this purpose.

(3) *The professional growth and effectiveness system shall:*

- (a) *Use multiple measures of effectiveness, including student growth data as a significant factor in determining the effectiveness of teachers and administrators, that utilize both state standardized tests and local formative growth measures that are rigorous and comparable across schools in a local district;*
- (b) *Include both formative and summative evaluation components;*
- (c) *Measure professional effectiveness;*
- (d) *Support professional growth;*
- (e) *Have at least three (3) performance levels;*
- (f) *Be used to inform personnel decisions;*
- (g) *Be considerate of the time requirements of evaluators at the local level and shall not require that all certified school personnel have a formal summative evaluation each year; and*
- (h) *Rate teachers or administrators by multiple measures instead of a single measure.*

(4)~~(2)~~ The performance criteria ~~by~~~~on~~ which teachers and administrators shall be evaluated shall include~~;~~ but not be limited to:

- (a) Performance of professional responsibilities related to his or her assignment, including attendance and punctuality and evaluating results;
- (b) Demonstration of effective planning of curricula, classroom instruction, and classroom management, based on research-based instructional practices, or school management skills based on validated managerial practices;
- (c) Demonstration of knowledge and understanding of subject matter content or administrative functions and effective leadership techniques;
- (d) Promotion and incorporation of instructional strategies or management techniques that are fair and respect diversity and individual differences;
- (e) Demonstration of effective interpersonal, communication, and collaboration skills among peers, students, parents, and others;
- (f) Performance of duties consistent with the goals for Kentucky students and mission of the school, the local community, laws, and administrative regulations;
- (g) Demonstration of the effective use of resources, including technology;
- (h) Demonstration of professional growth;
- (i) Adherence to the professional code of ethics; and
- (j) Attainment of the teacher standards or the administrator standards as established by the Education Professional Standards Board that are not referenced in paragraphs (a) to (i) of this subsection.

(5)~~(3)~~ The *following provisions shall apply to the statewide professional growth and effectiveness system*~~[certified employee evaluation programs shall contain the following provisions]:~~

- (a) ~~Each~~ Certified school *personnel*~~[employee]~~, below the level of superintendent, shall be evaluated by *using the*~~[a]~~ system developed by ~~the local school district and approved by~~ the Kentucky Department of Education;~~;~~
- (b) The ~~local~~ evaluation system shall include formative evaluation and summative evaluation *components; and*~~;~~

~~[1. "Formative evaluation" means a continuous cycle of collecting evaluation information and interacting and providing feedback with suggestions regarding the certified employee's professional growth and performance.~~

2. ~~"Summative evaluation" means the summary of, and conclusions from, the evaluation data, including formative evaluation data, that:~~
- a. ~~Occur at the end of an evaluation cycle; and~~
 - b. ~~Include a conference between the evaluator and the evaluated certified employee, and a written evaluation report.~~
- (c) The Kentucky Board of Education shall adopt administrative regulations incorporating written guidelines for a local school district to follow in ~~developing,~~ implementing~~, and revising~~ the ***professional growth and effectiveness***~~evaluation~~ system and shall require the following:
1. All evaluations of certified ***school personnel***~~employees~~ below the level of the district superintendent shall be in writing on evaluation forms and under evaluation procedures developed by a committee composed of an equal number of teachers and administrators;
 2. The immediate supervisor of the certified school ***personnel member***~~employee~~ shall be designated as the primary evaluator. At the request of a teacher, observations by other teachers trained in the teacher's content area or curriculum content specialists may be incorporated into the formative process for evaluating teachers;
 3. All monitoring or observation of performance of a certified school ***personnel member***~~employee~~ shall be conducted openly and with full knowledge of the ***personnel member***~~employee~~;
 4. Evaluators shall be trained, tested, and approved in accordance with administrative regulations adopted by the Kentucky Board of Education in the proper techniques for effectively evaluating certified school ***personnel***. ***Evaluators shall receive support and resources necessary to ensure consistent and reliable ratings***~~employees and in the use of the school district evaluation system~~;
 5. The ***professional growth and effectiveness***~~evaluation~~ system shall include a plan whereby the person evaluated is given assistance for professional growth as a teacher or administrator. The system shall also specify the processes to be used when corrective actions are necessary in relation to the performance of one's assignment; and
 6. The training requirement for evaluators contained in subparagraph 4. of this paragraph shall not apply to district board of education members.
- (6)~~(4)~~ (a) Each superintendent shall be evaluated according to a policy and procedures developed by the local board of education and approved by the department.
- (b) The summative evaluation of the superintendent shall be ***in writing***, discussed and adopted in an open meeting of the board and reflected in the minutes, ~~and~~.
- ~~(c) If the local board policy requires a written evaluation of the superintendent, it shall be~~ made available to the public upon request.
- ~~(c)~~(d)~~~~ Any preliminary discussions relating to the evaluation of the superintendent by the board or between the board and the superintendent prior to the summative evaluation shall be conducted in closed session.
- (7)~~(5)~~ ***Local districts may submit a written request to use an alternative effectiveness and evaluation system to the Kentucky Board of Education. The Kentucky Board of Education shall consider and approve a local district's use of an alternative effectiveness and evaluation system instead of the statewide system only if the Kentucky Board of Education determines the alternative system***~~[A local district may request from the Kentucky Department of Education a waiver from the guidelines and administrative regulations promulgated by the Kentucky Board of Education as required in subsection (3)(c) of this section in order to implement an alternative evaluation plan for employees on continuing contracts. The department shall grant a waiver if the alternative plan provides for a three (3) phase certified employee evaluation plan that includes]:~~
- (a) ***Is as rigorous, reliable, valid, and educationally sound as the statewide professional growth and effectiveness system;***
 - (b) ***Uses multiple measures of effectiveness, including student growth data as a significant factor in determining the effectiveness of teachers and administrators, that utilize both state standardized tests and local formative growth measures that are rigorous and comparable across schools in a local district;***

- (c) *Includes both formative and summative evaluation components;*
- (d) *Measures professional effectiveness;*
- (e) *Supports professional growth;*
- (f) *Has at least three (3) performance levels;*
- (g) *Is used to inform personnel decisions;*
- (h) *Is considerate of the time requirements of evaluators at the local level and does not require that all certified school personnel have a formal summative evaluation each year; and*
- (i) *Rates teachers and administrators by multiple measures instead of a single measure.*~~[Phase One: Evaluation for Professional Growth.~~
 - 1. ~~Evaluation is based on a wide array of relevant sources and directed toward general and specific recommendations for improvement; and~~
 - 2. ~~Evaluation does not include documentation that might adversely affect employment status.~~
- ~~(b) Phase Two: Transition.~~
 - 1. ~~Evaluation is for the purpose of intensive scrutiny of job performance;~~
 - 2. ~~Evaluation includes documentation that may lead to adverse employment decisions;~~
 - 3. ~~Assistance and support for improvement shall be provided by the school district; and~~
 - 4. ~~Placement of an individual in the transition phase shall not be subject to appeal, but the employee shall be notified of the decision in writing.~~
- ~~(c) Phase Three: Evaluation for Deficiency.~~
 - 1. ~~Notwithstanding KRS 161.760, written notice of potential termination, reduction of direct classroom responsibility, or other adverse actions and conditions for job retention are given the employee;~~
 - 2. ~~A clear time frame for proposed actions is provided the employee; and~~
 - 3. ~~The summative evaluation is subject to appeal.~~

~~— An alternative plan for the evaluation of certified personnel shall be proposed to the Kentucky Department of Education if the local district evaluation committee is in support of the plan. Training necessary to implement the alternative plan shall be provided to the principals, supervisory personnel, and the employees to be evaluated. The local district shall provide support to implement the plan. The department shall provide technical assistance to districts wishing to develop alternative evaluation plans.]~~

- (8){(6)} The Kentucky Board of Education shall establish an appeals procedure for certified school *personnel*~~[employees]~~ who believe that the local school district failed to properly implement the~~[approved]~~ evaluation system. The appeals procedure shall not involve requests from individual certified school *personnel members*~~[employees]~~ for review of the judgmental conclusions of their personnel evaluations.
- (9){(7)} The local board of education shall establish an evaluation appeals panel for certified *school* personnel that shall consist of two (2) members elected by the certified employees of the *local* district and one (1) member appointed by the board of education who is a certified employee of the *local* board of education. Certified *school personnel*~~[employees]~~ who think they were not fairly evaluated may submit an appeal to the panel for a timely review of their evaluation.~~[In districts that have adopted an alternative evaluation plan under subsection (4) of this section, the appeal shall only apply to the summative evaluation of Phase Three.~~
- ~~(8) Local school districts with an enrollment of sixty five thousand (65,000) or more students shall have an evaluation system but shall be exempt from procedures or processes described in this section as long as the plan meets the standards established by the Kentucky Board of Education for local school district evaluation systems. The local plan shall include an appeals process for employees who believe they were not fairly evaluated.~~
- ~~(9) Between July 15, 2000, and June 30, 2001, each school district shall review its local evaluation system to assure that the system is working effectively and to make changes to improve its system.]~~

- (10) ~~Beginning with the 2001-2002 school year, and in subsequent years,~~ The Kentucky Department of Education shall annually provide for on-site visits by trained personnel to a minimum of fifteen (15) school districts to review and ensure appropriate implementation of the evaluation system by the local school district. The department shall provide technical assistance to local districts to eliminate deficiencies and to improve the effectiveness of ~~the~~~~their~~ evaluation ~~system~~~~systems~~. The department may implement the requirement in this subsection in conjunction with other requirements, including, but not limited to, the scholastic audit process required by KRS 158.6455.
- (11) *The disclosure, pursuant to KRS Chapter 61, of any data or information, including student growth data, that local school districts or the Department of Education collect on individual classroom teachers under the requirements of KRS 156.557 is prohibited.*

Signed by Governor March 21, 2013.

CHAPTER 56

(HB 182)

AN ACT relating to school funding.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 157.350 is amended to read as follows:

Each district which meets the following requirements shall be eligible to share in the distribution of funds from the fund to support education excellence in Kentucky:

- (1) Employs and compensates all teachers for not less than one hundred eighty-five (185) days. The Kentucky Board of Education, upon recommendation of the commissioner of education, shall prescribe procedures by which this requirement may be reduced during any year for any district which employs teachers for less than one hundred and eighty-five (185) days, in which case the eligibility of a district for participation in the public school fund shall be in proportion to the length of time teachers actually are employed;
- (2) Operates all schools for a term as provided in KRS 158.070 and administrative regulations of the Kentucky Board of Education. If the school term is less than one hundred eighty-five (185) days for any reason not approved by the Kentucky Board of Education on recommendation of the commissioner, the eligibility of a district for participation in the public school fund shall be in proportion to the length of term the schools actually operate;
- (3) Compensates all teachers on the basis of a single salary schedule and in conformity with the provisions of KRS 157.310 to 157.440;
- (4) Includes no nonresident pupils in its average daily attendance, ~~except as follows~~:
 - (a) *I.* Pupils listed under a written agreement, which may be for multiple years, with the district of the pupils' legal residence.
 2. If an agreement cannot be reached, either board may appeal to the commissioner for settlement of the dispute.
 3. ~~(b)~~ The commissioner shall have thirty (30) days to resolve the dispute. Either board may appeal the commissioner's decision to the Kentucky Board of Education.
 4. ~~(c)~~ The commissioner and the Kentucky Board of Education shall consider the factors affecting the districts, including but not limited to academic performance and the impact on programs, school facilities, transportation, and staffing of the districts.
 5. ~~(d)~~ The Kentucky Board of Education shall have sixty (60) days to approve or amend the decision of the commissioner; *and*
- (b) *A nonresident pupil who attends a district in which a parent of the pupil is employed. All tuition fees required of a nonresident pupil may be waived for a pupil who meets the requirements of this paragraph.*

This subsection does not apply to those pupils enrolled in an approved class conducted in a hospital and pupils who have been expelled for behavioral reasons who shall be counted in average daily attendance under KRS 157.320;

- (5) Any secondary school which maintains a basketball team for boys for other than intramural purposes, shall maintain the same program for girls;
- (6) Any school district which fails to comply with subsection (5) of this section shall be prohibited from participating in varsity competition in any sport for one (1) year. Determination of failure to comply shall be made by the Department of Education after a hearing requested by any person within the school district. The hearing shall be conducted in accordance with KRS Chapter 13B. A district under this subsection shall, at the hearing, have an opportunity to show inability to comply.

Signed by Governor March 21, 2013.

CHAPTER 57

(HB 184)

AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

- (1) Department of Military Affairs;
- (2) Department for Local Government;
- (3) ***Early Childhood Advisory Council;***
- (4) Kentucky Commission on Human Rights;
- (5)~~(4)~~ Kentucky Commission on Women;
- (6)~~(5)~~ Kentucky Commission on Military Affairs;
- (7)~~(6)~~ Agricultural Development Board;
- (8)~~(7)~~ Kentucky Agricultural Finance Corporation;
- (9)~~(8)~~ Office of Minority Empowerment;
 - (a) The Martin Luther King Commission; and
- (10)~~(9)~~ Office of Homeland Security.

➔Section 2. KRS 164.518 is amended to read as follows:

- (1) It is the intent of the General Assembly to create a seamless system to upgrade the professional development of persons who are employed or provide training in a child-care or early childhood setting through scholarships, merit awards, and monetary incentives, to assist these persons in obtaining a child development associate credential, post-secondary certificate, diploma, degree, or specialty credential in an area of study determined by the ***Early Childhood Advisory Council*** authority ~~as recommended by the professional development council~~.
- (2) Eligibility for scholarship funds shall be for individuals who do not have access to professional development funds from other education programs that receive state or federal funds, and who are:
 - (a) Employed at least twenty (20) hours per week providing services in a child-care or early childhood setting; or
 - (b) Involved in providing professional development training for teachers in an early childhood setting.

- (3) The Kentucky Higher Education Assistance Authority, after consultation with the Early Childhood **Advisory Council**~~[Development Authority]~~ and the Cabinet for Health and Family Services, shall promulgate administrative regulations, including a system of monetary incentives for scholarship program participants for completing classes, in accordance with KRS Chapter 13A as necessary to implement this section.

➔Section 3. KRS 199.8941 is amended to read as follows:

- (1) The Early Childhood **Advisory Council**~~[Development Authority]~~ shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish a program of monetary incentives including but not limited to an increased child-care subsidy and a one-time merit achievement award for child-care centers and certified family child-care homes that are tied to a quality rating system for child care as established under KRS 199.8943.
- (2) The monetary incentive program shall be reviewed annually by the **council**~~[authority]~~ for the purpose of determining future opportunities to provide incentives.
- (3) Participation in the program of monetary incentives and in the quality rating system by child-care centers and certified family child-care homes is voluntary.
- (4) The Cabinet for Health and Family Services shall encourage the professional development of persons who are employed or provide training in a child-care or early childhood setting by facilitating their participation in the scholarship program for obtaining a child development associate credential, postsecondary certificate, diploma, degree, or specialty credential as established under KRS 164.518.

➔Section 4. KRS 199.8943 is amended to read as follows:

- (1) The Early Childhood **Advisory Council**~~[Development Authority]~~ shall, in consultation with child-care providers, the Cabinet for Health and Family Services, and others, including but not limited to child-care resource and referral agencies and family resource centers, develop a voluntary quality-based graduated child-care rating system for licensed child-care and certified family child-care homes based on, but not limited to:
- (a) Child to caregiver ratios;
 - (b) Child-care staff training;
 - (c) Program curriculum; and
 - (d) Program regulatory compliance.
- (2) The Cabinet for Health and Family Services shall *in consultation with the Early Childhood Advisory Council*, promulgate administrative regulations in accordance with KRS Chapter 13A to implement:
- (a) The voluntary quality-based graduated child-care rating system for child-care and certified family child-care homes developed under subsection (1) of this section;
 - (b) Agency time frames of reviews for rating;
 - (c) An appellate process under KRS Chapter 13B; and
 - (d) The ability of providers to request reevaluation for rating.

➔Section 5. KRS 199.8996 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall prepare the following reports to the General Assembly on child-care programs, and shall make them available to the public:
- (a) A quarterly report detailing the number of children and amounts of child-care subsidies provided in each area development district;
 - (b) A quarterly report on administrative expenses incurred in the operation of child-care subsidy programs;
 - (c) A quarterly report on disbursements of federal child-care block grant funds for training, resource and referral, and similar activities; and
 - (d) Beginning July 15, 1993, an annual report summarizing the average child-care subsidy activities per month in all Kentucky counties.
- (2) The cabinet shall file an annual report on its evaluation of the adequacy of the child-care subsidy to enable low-income families in need of child-care services to obtain child care with the Early Childhood **Advisory Council**~~[Development Authority]~~ and the Legislative Research Commission.

- (3) The cabinet shall file an annual report on the number of dedicated child-care licensing surveyor positions and the ratio of surveyors to child-care facilities with the Early Childhood ~~Advisory Council~~~~Development Authority~~ and the Legislative Research Commission.

➔Section 6. KRS 200.700 is amended to read as follows:

- (1) The Early Childhood ~~Advisory Council~~~~Development Authority~~ is established as a public agency and political subdivision of the Commonwealth with all powers, duties, and responsibilities conferred upon it by statute and essential to perform its functions including but not limited to employing other persons, consultants, attorneys, and agents. The ~~council~~~~authority~~ shall be attached to the ~~Office of the Governor~~~~Department of Education~~ for administrative purposes and shall establish necessary advisory councils. *The secretary of the Education and Workforce Development Cabinet or the secretary's designee shall be the appointing authority for the council pursuant to KRS Chapter 18A.* The ~~council~~~~authority~~ shall have the ability to make expenditures from the early childhood development fund and shall ensure that expenditures made from the early childhood development fund are in conformance with its duties as established by the General Assembly.
- (2) *The council shall be headed by an executive director appointed by the Governor pursuant to KRS 12.040. The executive director shall report to the secretary of the Education and Workforce Development Cabinet or the secretary's designee.*
- (3) The ~~council~~~~authority~~ shall consist of the following ~~twenty-six (26)~~~~sixteen (16)~~ members:
- (a) The ~~state~~ director of ~~Head Start Collaboration~~~~the Division of Early Childhood Development, who shall serve as chair~~;
 - (b) The secretary of the Education and Workforce Development Cabinet *or designee*;
 - (c) The secretary of the Cabinet for Health and Family Services *or designee*;
 - (d) One (1) nonvoting ex officio member from the House of Representatives who shall be appointed by and serve at the pleasure of the Speaker of the House;
 - (e) One (1) nonvoting ex officio member from the Senate who shall be appointed by and serve at the pleasure of the President of the Senate;
 - (f) ~~Six (6)~~~~Seven (7)~~ private sector members knowledgeable about the health, *mental health*, education, and development of *prenatal to school entry* ~~preschool~~ children who shall be appointed by the Governor. ~~One~~~~At least one~~ (1) private sector member shall be appointed from each congressional district;
 - (g) ~~Seven (7)~~~~Three (3)~~ citizens at large of the Commonwealth who shall be appointed by the Governor; ~~and~~
 - (h) One (1) early childhood development advocate *who shall be appointed by the Governor*; ~~and~~
 - (i) *One (1) member representing higher education with expertise in early childhood who shall be appointed by the Governor; and*
 - (j) *Six (6) members appointed by the Governor, including one (1) member from a Head Start program located in the state, one (1) member from a local education agency, one (1) member from the state agency responsible for education, one (1) member from the state agency responsible for child care, one (1) member from the state agency responsible for Part C of the Individuals with Disabilities Education Act (IDEA), and one (1) member from the state agency for health and mental health.*
- ~~(4)~~~~(3)~~No later than thirty (30) days after July 14, 2000, the governing bodies of each of the following organizations shall recommend three (3) persons, at least one (1) of whom shall be male and at least one (1) of whom shall be female, as candidates for initial appointment by the Governor as private sector members to the authority:
- ~~(a) The Kentucky AFL-CIO;~~
 - ~~(b) The Kentucky Chamber of Commerce;~~
 - ~~(c) The Kentucky League of Cities;~~
 - ~~(d) The Kentucky Medical Association;~~
 - ~~(e) The Louisville Urban League and Lexington Urban League;~~

- (f) ~~The Kentucky County Judge/Executives Association; and~~
- (g) ~~The Kentucky Council on Postsecondary Education.~~
- (4) ~~The Governor shall select the private sector members of the authority by selecting one (1) nominee from each list of the three (3) nominees submitted to the Governor by each organization listed under subsection (3) of this section. The Governor shall fill a vacancy occurring before the expiration of the appointed term from the appropriate list of nominees. If there are no nominees remaining on the appropriate list, the Governor shall request a list of additional nominees from the appropriate organization.~~
- (5) (a) The initial terms of the private sector and *citizen-at-large* members of the *council* shall be for:
1. One (1) year for *five* of the initial terms;
 2. Two (2) years for *five* of the initial terms;
 3. Three (3) years for *six* of the initial terms; and
 4. Four (4) years for *five* of the initial appointments.
- (b) All succeeding appointments shall be for four (4) years from the expiration date of the preceding appointment. *The private and citizen-at-large members shall serve no more than two (2) full successive terms. A term shall expire on June 30 in the appropriate year.*
- (c) Members shall serve until a successor has been appointed. *If a vacancy on the council occurs, the Governor shall appoint a replacement for the remainder of the unexpired term except for the members appointed by the Speaker of the House and President of the Senate.*
- (d) *The members and nonmember appointees of the council shall comply with the gift and conflict of interest statutes in KRS Chapter 11A. Any conflict of interest issue shall be submitted to the Executive Branch Ethics Commission for resolution.*
- (e) *The Governor shall appoint the chair of the council from the private sector or citizen-at-large membership.*
- (f) *The chair may appoint nonmembers of the council to committees or workgroups.*
- (5) (6) Private sector and *citizen-at-large* members *and nonmembers appointed to a committee or workgroup* shall serve without compensation but shall be reimbursed for reasonable and necessary expenses *in accordance with state travel expenses and reimbursement administrative regulations.*
- (6) (7) In making appointments to the *council*, the Governor shall assure broad geographical, ethnic, and gender diversity representation from the major sectors of Kentucky's early childhood development community. In filling vacancies, the Governor shall attempt to assure the continuing representation on the *council* of broad constituencies of Kentucky's early childhood development community.
- (8) ~~Upon the expiration of the term of any member, the governing body of the organization that made the original recommendation shall recommend three (3) persons, at least one (1) of whom shall be male and at least one (1) of whom shall be female, between sixty (60) and thirty (30) days before the expiration of the term of any authority member who is appointed as a result of a previous recommendation. The Governor shall, during March of the year that any organization is to recommend three (3) persons, request the organization to recommend three (3) persons for possible appointment to the authority. If there is no response, the Governor shall make the appointment from the population of the Commonwealth.~~
- (7) (9) The *council* shall meet at least quarterly and at other times upon call of the chair or a majority of the *council*.
- (8) (10) Members of the *council* shall serve on a voluntary basis, and be reimbursed for their expenses in accordance with state travel expense and reimbursement administrative regulations.
- ➔ Section 7. KRS 200.703 is amended to read as follows:
- (1) *The Early Childhood Advisory Council is responsible for the following:*
- (a) *Promoting the vision for Kentucky's early childhood system;*
 - (b) *Advocating for improved quality of early childhood services;*

- (c) *Promoting the definition of school readiness and the expanded and appropriate use of the early childhood standards;*
- (d) *Strengthening state, regional, and local level coordination and collaboration among the various sectors and settings of early childhood programs in the state;*
- (e) *Identifying opportunities and strategies to reduce barriers to coordination and collaboration among existing private, federal, and state-funded early childhood programs;*
- (f) *Developing and implementing recommendations for:*
 - 1. *Increasing overall participation of children in existing federal, state, and local child care and early education programs, including outreach to underrepresented and special populations;*
 - 2. *Establishing or improving core elements of the state early childhood system;*
 - 3. *Enhancing the professional development system and career ladder for early childhood educators and caregivers; and*
 - 4. *Promoting high-quality state early learning standards and undertaking efforts to ensure the development and use of high-quality comprehensive early learning standards, as appropriate;*
- (g) *Assessing the capacity and effectiveness of institutes of higher education in the state toward supporting the development of early childhood educators;*
- (h) *Facilitating the development or enhancement of high-quality systems of early childhood care and education designed to improve school readiness through one or more of the following activities:*
 - 1. *Promoting school preparedness of children from birth through school entry;*
 - 2. *Supporting professional development, recruitment, and retention initiatives for early childhood educators and caregivers;*
 - 3. *Enhancing existing early childhood education and development programs and services;*
 - 4. *Carrying out other activities consistent with the state's plan and application; and*
 - 5. *Establishing priorities for programs and the expenditure of funds that include but are not limited to the following:*
 - a. *Implementation of public health initiatives identified by the General Assembly, including those listed in KRS 211.690 and 199.8945;*
 - b. *Provision of preconception and prenatal vitamins, with priority for folic acid for the prevention of neural tube defects;*
 - c. *Voluntary immunization for children not covered by public or private health insurance;*
 - d. *Expanding availability of high-quality, affordable early child-care and education options; and*
 - e. *Increasing public awareness of the importance of the early childhood years for the well-being of all of Kentucky's citizens;*
- (i) *Requesting reports and issuing progress updates on state and federally funded services that impact the quality of Kentucky's early childhood system;*
- (j) *Receiving, requesting, and utilizing, consistent with this section, federal, state, and private funds, including from philanthropic sources;*
- (k) *Involving the corporate community, county judge/executives, and mayors in supporting issues of importance to working families with young children in the Commonwealth;*
- (l) *Collecting and disseminating information about the various ways business and local government can become involved in supporting early childhood; and*
- (m) *Other duties and responsibilities as designated by the Governor*~~[The [authority] shall establish priorities for programs and the expenditure of funds that include but are not limited to the following:~~
- ~~(a) Implementation of public health initiatives identified by the General Assembly;~~

- ~~(b) Provision of preconceptional and prenatal vitamins, with priority for folic acid for the prevention of neural tube defects;~~
 - ~~(c) Voluntary immunization for children not covered by public or private health insurance;~~
 - ~~(d) Availability of high quality, affordable early child care and education options; and~~
 - ~~(e) Increased public awareness of the importance of the early childhood years for the well being of all Kentucky's citizens}.~~
- (2) The **council**~~{authority}~~ shall develop a state plan on a biennial basis that identifies early childhood development funding priorities. Every two (2) years the **council**~~{authority}~~ shall review its priorities and make necessary adjustments to its state plan. The state plan shall incorporate priorities included in *the final report and recommendations of the Governor's Task Force on Early Childhood Development and Education, November 2010*, [*"KIDS NOW: Kentucky Invests in Developing Success, a Report from the Governor's Early Childhood Task Force, November 1999,"*] and recommendations identified by the community early childhood councils. The **council**~~{authority}~~ shall file a report on the state plan with the Governor and the Legislative Research Commission by July 15 of odd-numbered years.
 - (3) Programs funded by the **council**~~{authority}~~ shall be implemented by the appropriate agencies within the Cabinet for Health and Family Services, the Education and Workforce Development Cabinet, the Finance and Administration Cabinet, or other appropriate administrative agency.
 - (4) The **council**~~{authority}~~ shall assure that a public hearing is held on the expenditure of funds. Advertisement of the public hearing shall be published at least once but may be published two (2) more times, if one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing.
 - (5) The **council**~~{authority}~~ shall promulgate administrative regulations in accordance with KRS Chapter 13A to:
 - (a) Coordinate and improve early childhood development services, outcomes, and policies;
 - (b) Establish procedures that relate to its governance;
 - (c) Designate service areas of the Commonwealth where the community early childhood councils may be established to identify and address the early childhood development needs of young children and their families for the communities that they serve;
 - (d) Establish procedures that relate to the monitoring of grants, services, and activities of the community early childhood councils and their governance;
 - (e) Establish procedures for accountability and measurement of the success of programs that receive funds from the **council**~~{authority}~~; and
 - (f) Establish standards for the payment of funds to a designated service provider and grantee of a community early childhood council. These standards shall include requirements relating to:
 1. The financial management of funds paid to grantees;
 2. The maintenance of records; and
 3. An independent audit of the use of grant funds.
 - (6) The **council**~~{authority}~~ may disband or suspend a **community early childhood** council, and may remove one (1) or more members for nonperformance or malfeasance. The **council**~~{authority}~~ may also recover funds that have been determined by the **council**~~{authority}~~ to have been misappropriated or misspent in relation to a grant award.
 - (7) An appeal to the **council**~~{authority}~~ may be made by a **community early childhood** council as to a decision made by the **council**~~{authority}~~ on the disbanding or suspension of a **community early childhood** council, service provider, or grantee on a determination that funds have been misappropriated or misspent and are subject to recovery. The appeal shall be conducted in accordance with KRS Chapter 13B.
 - (8) The **council**~~{authority}~~, **community early childhood** councils established by the **council** ~~{authority}~~, and initiatives funded by the **council**~~{authority}~~ with expenditures from the early childhood development fund shall expire when:

- (a) Funds are no longer designated to the Commonwealth from the master settlement agreement signed on November 22, 1998, between the participating tobacco manufacturers and the forty (40) settling states or related federal legislation; or
- (b) Funds are no longer designated to the early childhood development fund from gifts, grants, or federal funds to fund the *council*~~[authority]~~, the *community early childhood* councils established by the *council*~~[authority]~~, or any programs that had been funded by the *council*~~[authority]~~ with expenditures from the early childhood development fund.
- (9) ~~[(a) The authority shall establish a Healthy Babies Work Group, consisting of representatives from the Cabinet for Health and Family Services; public schools; local libraries; the Kentucky March of Dimes; family resource centers; agencies that provide benefits under the Special Supplementation Food Program for Women, Infants, and Children; the Folic Acid Awareness Campaign; physicians; secondary health education and consumer sciences teachers; the Spina Bifida Association of Kentucky; and other persons as appropriate. Representatives shall reflect the geographic, racial, and gender diversity of the Commonwealth.~~
- ~~[(b) The Healthy Babies Work Group shall collaborate on development and implementation of a public awareness campaign to inform the citizens of the Commonwealth about the benefits of good nutrition, folic acid, smoking cessation, and healthy lifestyle choices that lead to healthy babies, the effects of alcohol and substance abuse on fetal and early childhood development, and the need for a vision examination of children at age three (3). The work group shall work with local health departments for the vision examination outreach program.~~
- (10) The authority shall work with local entities, including but not limited to health departments and service providers, to establish to the extent of available funding a vision examination program for children who are not eligible for the Kentucky Children's Health Insurance Program or Medicaid, and who do not have insurance coverage for a vision examination. The authority shall provide that primary students, regardless of age, who are having difficulty with reading may be referred and receive a second vision examination as described in KRS 156.160 at no cost to the parent.
- ~~[(11)]~~ The *council*~~[authority]~~ shall develop a request for proposal process by which local early childhood councils may request any funding appropriated to the *council*~~[authority]~~ for use by the councils.

➔Section 8. KRS 200.707 is amended to read as follows:

- (1) *The Early Childhood Advisory Council may recognize and fund a community early childhood council.* ~~[(The family resource center and the child care resource and referral agency in the service area shall form a community early childhood council and appoint members to the council for each service area designated under KRS 200.703.)]~~ A council shall be composed of no fewer than seven (7) and no more than twenty-seven (27) members. *Each council shall be composed of at least one (1) member representing local agencies or organizations from profit, nonprofit, or family child care, Head Start or Early Head Start, and each school district in its designated service area. Other members may be appointed who represent local agencies and organizations, including, but not limited to, the organizations or agencies listed* ~~[(below, with no more than one (1) member from each):]~~
- (a) Early childhood advocate;
- (b) Faith community;
- (c) ~~[(School district;~~
- ~~[(d)]~~ Family resource center;
- ~~[(d)]~~~~[(e)]~~ Military establishment;
- ~~[(f) — Head Start or Early Head Start;~~
- ~~[(g) — Child care (profit, nonprofit, or family child care);]~~
- ~~[(e)]~~~~[(h)]~~ Child-care resource and referral agency or child-care subsidy agent;
- ~~[(f)]~~~~[(i)]~~ Child-care consumer or parent;
- ~~[(g)]~~~~[(j)]~~ County cooperative extension service;
- ~~[(h)]~~~~[(k)]~~ Department for public health;
- ~~[(i)]~~~~[(l)]~~ University, college, or technical school;
- ~~[(j)]~~~~[(m)]~~ United Way;

- (k)~~(n)~~ Kentucky Early Intervention System;
- (l)~~(o)~~ Agency administering services to children with disabilities;
- (m)~~(p)~~ Home visitation agency;
- (n)~~(q)~~ Family literacy agency;
- (o)~~(r)~~ Civic organization;
- (p)~~(s)~~ Public library;
- (q)~~(t)~~ Regional training center;
- (r)~~(u)~~ Community action agency;
- (s)~~(v)~~ Government;
- (t)~~(w)~~ Business community;
- (u)~~(x)~~ Home schooling association;
- (v)~~(y)~~ Health care professional;
- (w)~~(z)~~ Foster care parent; or
- (x)~~(aa)~~ Adoptive parent.
- (2) Members shall serve on a community early childhood council on a voluntary basis and receive no compensation or expense reimbursement for their service.
- (3) (a) Members shall serve for a term of two (2) years and until their successors are appointed, except that for those members initially appointed, the terms shall be as follows:
1. One-third (1/3) of the members shall be appointed for three (3) years;
 2. One-third (1/3) shall be appointed for two (2) years; and
 3. One-third (1/3) shall be appointed for one (1) year.
- (b) Vacancies shall be appointed for unexpired terms in the same manner as original appointments.
- (4) A community early childhood council shall collaborate with the District Early Intervention Committee, the Preschool Interagency Planning Council, and other existing interagency groups in the service area.
- (5) A community early childhood council may apply for a competitive grant from the **Early Childhood Advisory Council**~~authority~~, consistent with a state plan for grant participation as established by the **Early Childhood Advisory Council**~~authority~~. Grant proposals shall:
- (a) Include a needs assessment and budget proposal for the respective service area served by a **community early childhood** council;
 - (b) Not include administrative costs that exceed five percent (5%); and
 - (c) Contain a signed statement from each member of the **community early childhood** council certifying that no program, agency, or individual that may receive part of an award would constitute a conflict of interest under KRS Chapter 11A for the council member. Issues concerning conflicts of interest shall be submitted to the Executive Branch Ethics Commission for resolution.
- (6) A community early childhood council shall submit **an annual**~~a quarterly~~ report to the **Early Childhood Advisory Council**~~authority~~ that details the activities and services of the **community early childhood** council, including the progress that the **community early childhood** council has made toward addressing the early childhood development **and school readiness** goals for its designated service area and recommendations that may be included in the state plan.
- (7) Any records that are in the custody of a community early childhood council, a designated service provider, or a grantee that contain personal and identifying information relating to a family or children receiving services through the council shall be confidential and not subject to public disclosure, except as otherwise authorized by law.

➔Section 9. KRS 211.647 is amended to read as follows:

- (1) The commission, on receipt of an auditory screening report of an infant from a hospital or alternative birthing center in accordance with KRS 216.2970 shall review each auditory screening report that indicates a potential hearing loss. The commission shall contact the parents to schedule follow-up evaluations or make a referral for evaluations within three (3) business days.
- (2) The commission shall secure information missing from birth certificates or hospital referral reports which is relevant to identifying infants with a hearing loss.
- (3) The commission shall establish standards for infant audiological assessment and diagnostic centers based on accepted national standards, including but not limited to the "Guidelines for the Audiologic Assessment of Children From Birth to 5 Years of Age" as published by the American Speech-Language-Hearing Association (ASHA) and the "Year 2007 Position Statement: Principles and Guidelines for Early Hearing Detection and Intervention Programs" as published by the Joint Committee on Infant Hearing (JCIH). The commission may promulgate administrative regulations in accordance with KRS Chapter 13A to establish the standards for the centers.
- (4) The commission shall maintain a list of approved infant audiological assessment and diagnostic centers that meet the standards established by the commission. An audiological assessment and diagnostic center included on the list shall meet the standards established by the commission. An approved center may voluntarily choose not to be included on the list.
- (5) An approved audiology assessment and diagnostic center shall agree to provide requested data to the commission for each infant evaluated and on any newly identified children ages birth to three (3) years with a permanent childhood hearing loss within forty-eight (48) hours and make a referral to the Kentucky Early Intervention System point of entry in the service area of the child's residence for services under KRS 200.664. A center shall submit documentation to the commission of a referral made to the Kentucky Early Intervention System. A referral received by the Kentucky Early Intervention System from a center shall be considered a referral from the commission.
- (6) If the audiological evaluation performed by the commission contains evidence of a hearing loss, within forty-eight (48) hours the commission shall:
 - (a) Contact the attending physician and parents and provide information to the parents in an accessible format as supplied by the Kentucky Commission on the Deaf and Hard of Hearing; and
 - (b) Make a referral to the Kentucky Early Intervention System point of entry in the service area of the child's residence for services under KRS 200.664.
- (7) The commission shall forward a report of an audiological evaluation that indicates a hearing loss, with no information that personally identifies the child, to:
 - (a) The Kentucky Commission on the Deaf and Hard of Hearing for census purposes; and
 - (b) The Kentucky Birth Surveillance Registry for information purposes.
- (8) Cumulative demographic data of identified infants with a hearing loss shall be made available to agencies and organizations including but not limited to the Cabinet for Health and Family Services and the Early Childhood **Advisory Council**~~[Development Authority]~~, requesting the information for planning purposes.

➔Section 10. The following KRS section is repealed:

200.709 Early Childhood Business Council.

➔Section 11. The General Assembly confirms Executive Order 2012-586, dated July 16, 2012, to the extent it is not otherwise confirmed or superseded by this Act.

Signed by Governor March 21, 2013.

CHAPTER 58

(HB 192)

AN ACT relating to judgment liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 426.720 is amended to read as follows:

A final judgment for the recovery of money or costs in the courts of record in this Commonwealth, whether state or federal, shall act as a lien upon all real estate in which the judgment debtor has any ownership interest, in any county in which the following first shall be done:

- (1) The judgment creditor or his counsel shall file with the county clerk of any county a notice of judgment lien containing the court of record entering the judgment, the civil action number of the suit in which the judgment was entered, and the amount of the judgment, including principal, interest rate, court costs, and any attorney fees;
- (2) The county clerk shall enter the notice in the lis pendens records in that office, and shall so note the entry upon the original of the notice;
- (3) The judgment creditor or his counsel shall send to the last known address of the judgment debtor ***or the judgment debtor's attorney of record***, by regular first class mail, postage prepaid, or shall deliver to the debtor personally, a copy of the notice of judgment lien, which notice shall include the text of KRS 427.060 and also the following notice, or language substantially similar:

"Notice to Judgment Debtor. You may be entitled to an exemption under KRS 427.060, reprinted below. If you believe you are entitled to assert an exemption, seek legal advice."; and

- (4) The judgment creditor or his counsel shall certify on the notice of judgment lien that a copy thereof has been mailed to the judgment debtor in compliance with subsection (3) of this section.
- (5) ***In any action involving real property which is subject to a judgment lien, service may be had upon the judgment creditor by serving the judgment creditor or the judgment creditor's attorney as shown in the notice of judgment lien.***

Signed by Governor March 21, 2013.

CHAPTER 59

(HB 207)

AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 151B.010 is repealed, reenacted as a new section of KRS Chapter 156, and amended to read as follows:

As used in ***Sections 1 to 31 of this Act***~~[this chapter]~~, unless the context indicates otherwise:

- (1) "Appointing authority" means the commissioner ***of education***~~[for the Department of Workforce Investment]~~ or any person authorized by the commissioner to act on behalf of the Office of Career and Technical Education with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. The designation shall be in writing and signed by both the commissioner and the designee;
- (2) "Base salary" means the compensation to which an employee is entitled under the salary schedule adopted pursuant to the provisions of ***Section 7(3)(h) of this Act***~~[KRS 151B.035(3)(h)]~~;
- (3) "Board" means the Kentucky Technical Education Personnel Board established in ***Section 23 of this Act***~~[KRS 151B.097]~~;
- (4) "Certified employees" means those employees who fill school or educational assignments requiring the issuance of a certificate. These employees in the Office of Career and Technical Education are subject to personnel administration under ***Sections 1 to 31 of this Act***~~[this chapter]~~;

- (5) "Class" means a group of positions sufficiently similar as to the duties performed, scope of discretion and responsibility, minimum requirements of training, and other characteristics that the same title and the same schedule of compensation have been or may be applied to each position in the group;
- (6) "Classified" means status as merit system employees under the provisions of KRS Chapter 18A;
- (7) "Continuing status" means the acquisition of tenure with all rights and privileges granted by the provisions of **Sections 1 to 31 of this Act**~~[this chapter]~~ which must be preceded by four (4) years of successful employment;
- (8) "Demotion" means a change in an employee's position to another class having less discretion or responsibility;
- (9) "Emergency appointment" means employment for a maximum period of sixty (60) days without regard to the certification process for any position in the Office of Career and Technical Education requiring certification or its equivalent;
- (10) "Employee" means a person regularly employed in a position in the Office of Career and Technical Education for which compensation is on a full-time or part-time basis;
- (11) "Equivalent employees" means those employees with educational backgrounds similar to certified personnel in the administration and conduct of educationally related services. These employees in the Office of Career and Technical Education shall be subject to personnel administration under **Sections 1 to 31 of this Act**~~[this chapter]~~;
- (12) "Hearing officer" means a member of the board, a person hired for this purpose by personal service contract, or an assistant attorney general;
- (13) "Index" means the percentage add-on in a salary structure which compensates for the scope of discretion and responsibility of the position;
- (14) "Initial probation" means the one (1) year period following initial appointment of certified and equivalent employees under **Section 16 of this Act**~~[KRS 151B.070]~~ which requires special observation and evaluation of a person's work and which must be passed successfully before eligibility for renewal of limited status;
- (15) "Limited status" means employment that is renewable on an annual basis;
- (16) "Penalization" means actions including demotion, dismissal, suspension, involuntary transfer, reduction in rank or pay, or the abridgement or denial of rights granted to state employees or other disciplinary actions;
- (17) "Position" means employment involving duties requiring the services of one (1) person;
- (18) "Promotion" means changing an employee from a position in one (1) class to a position in another class carrying a greater scope of discretion and responsibility;
- (19) "Promotional probation" means the twelve (12) month period of service following the promotion of an employee with continuing status which must be successfully completed in order for the employee to remain in the position;
- (20) "Reemployment" means the rehiring of an employee with continuing status who has been laid-off;
- (21) "Reemployment list" means the separate list of names of persons who have been separated from certified or equivalent positions in the Office of Career and Technical Education by reason of lay-off. Reemployment lists shall be used as provided by the provisions of **Section 18 of this Act**~~[KRS 151B.080]~~;
- (22) "Reinstatement" means the restoration of a certified or equivalent employee who has resigned in good standing or who has been ordered reinstated by the board or a court to a position in the former class or to a position of like status and pay;
- (23) "Seasonal employees" means employees employed in a seasonal position. Seasonal position means a position that is temporary, and which coincides with a particular season or seasons of the year;
- (24) "Temporary employee" means an employee appointed to a temporary position. Temporary position means a position that is created for a definite period of time;
- (25) "Transfer" means a movement of any certified or equivalent employee from one (1) position to another having the same salary range and the same level of responsibility; and
- (26) "Unclassified employee" means any temporary or seasonal employee and any employee in a policymaking position who shall be exempt from the state service under KRS Chapter 18A and who is employed in the Office of Career and Technical Education under **Sections 1 to 31 of this Act**~~[this chapter]~~.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

- (1) *The commissioner of education shall establish and appoint members to a Career and Technical Education Advisory Committee to advise the Department of Education on the development of a robust and effective career and technical education program.*
- (2) *The committee shall include representatives of business, industry, and the Kentucky Community and Technical College System; the commissioner of the Department of Workforce Investment; and any other individuals deemed appropriate by the commissioner of education.*

➔Section 3. KRS 151B.025 is repealed, reenacted as a new section of KRS Chapter 156, and amended to read as follows:

- (1) The Office of Career and Technical Education is hereby created within the *Department of Education* ~~and Workforce Development Cabinet~~. The office shall consist of ~~an executive director and~~ those administrative bodies and employees provided by or appointed *by the commissioner of education* pursuant to *KRS 156.010*~~Haw~~.
- (2) The *commissioner of education* may appoint an assistant, pursuant to *KRS 156.010*, and delegate authority to the assistant regarding ~~chief executive officer of the office shall be the executive director of~~ the Office of Career and Technical Education. ~~The executive director shall be appointed to the unclassified service by the secretary of the Education and Workforce Development Cabinet with the approval of the Governor pursuant to KRS 12.050. The executive director shall have general supervision and direction over all functions of the office and its employees, and shall be responsible for carrying out the programs and policies of the office. The executive director may delegate authority to deputies who may then act on his or her behalf in performing the duties assigned in this subsection.~~
- (3) The *Department of Education*~~office~~ shall have the responsibility for all administrative functions of the state in relation to the management, control, and operation of state-operated secondary area vocational education and technology centers. When appropriate, the *Department of Education*~~office~~ shall provide education training programs through contracts with private business and industries. These programs may be on a shared cost basis or on a total cost recovery basis.
- (4) The *commissioner of education*~~executive director of the Office of Career and Technical Education~~ shall have the authority to enter into agreements or contracts with other government or education agencies, including local school districts, in order to carry out services under the office's jurisdiction.
- (5) (a) Secondary area vocational education and technology centers shall be operated in compliance with program standards established by the Kentucky Board of Education. Principals, counselors, and teaching staff shall meet the qualifications and certification standards for all secondary vocational personnel as established by the Educational Professional Standards Board. ~~In addition to direct appropriations, funds appropriated to support the cost of operating area vocational education and technology centers shall be transferred annually from the secondary funds administered by the Kentucky Department of Education for that purpose.~~
- ~~(6) The Office of Career and Technical Education, in the operation and management of its schools and the programs at those schools, shall meet all required federal and state standards relating to facilities and personnel qualification; provided, however, that no license or license fee shall be required for any school or program operated by the Office of Career and Technical Education.~~
- ~~(7)~~ ~~(b)~~ ~~(a)~~ The *Kentucky Board of Education*~~Office of Career and Technical Education~~ shall be the *eligible*~~education~~ agency solely designated for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for vocational-technical or technology education. The *Kentucky Board of Education*~~office~~ shall involve representatives from all eligible recipient categories in the development of the required plans.
- ~~(c)~~ ~~(b)~~ In accordance with 20 U.S.C. sec. 2302~~(12)~~~~(9)~~, the Kentucky *Board of Education*~~Workforce Investment Board~~ is hereby designated to be the "eligible agency" that is the sole state agency responsible for the administration of vocational and technical education and the supervision of the administration of vocational and technical education.
- (6) (a) ~~(8)~~ Except for the duties that the *Kentucky Board of Education*~~Workforce Investment Board~~ must retain pursuant to 20 U.S.C. sec. 2341, the Kentucky *Board of Education*~~Workforce Investment Board~~ shall be authorized to delegate all of the other duties and responsibilities of the eligible agency to the Office of Career and Technical Education within the *Department of Education* ~~and Workforce~~

~~Development Cabinet~~, including but not limited to the administration, operation, and supervision of the Perkins program and the authority to receive, hold, and disburse funds awarded under the state plan.

- (b) *The Kentucky Board of Education shall delegate to the Kentucky Workforce Investment Board the state leadership activities referred to in 20 U.S.C. sec. 2344 to be conducted in accordance with the required and permissible uses of funds specified in the Carl D. Perkins Career and Technical Education Act of 2006 and subsequent amendments thereto. The maximum amount of funds allowed by 20 U.S.C. sec. 2322(a)(2) shall be reserved and made available for state leadership activities.*

~~(7)(9)~~ The *commissioner of education*~~[office]~~ shall be permitted to enter into memorandums of agreement with individuals on a year-to-year basis to fill positions in hard-to-find teaching specialties. The agreements and compensation for hard-to-find teaching specialties shall be approved by the *commissioner of education*~~[executive director]~~ and shall not be subject to the provisions of KRS Chapter 45A. All agreements shall be filed with the secretary of the Finance and Administration Cabinet.

~~(8)(10)~~ The *commissioner of education*~~[executive director of the Office of Career and Technical Education]~~ shall, from time to time, prepare or cause to be prepared any bulletins, programs, outlines of courses, placards, and courses of study deemed useful in the promotion of the interests of technical and vocational education.

~~(11)~~ ~~The executive director of the Office of Career and Technical Education shall be responsible for the preparation of a biennial budget request, which shall be forwarded to the executive director of the Office of Budget and Administration within the Education and Workforce Development Cabinet for preliminary review and approval. Final approval shall be given by the secretary of the Education and Workforce Development Cabinet or his or her designee.~~

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

- (1) *A local board of education may submit a request to the commissioner of education to assume authority for the management and control of a state-operated secondary vocational education and technology center. Upon agreement between the commissioner of education and the local board of education for the transfer of a state-operated secondary vocational education and technology center, all personnel, equipment, and supplies shall be transferred to the local board of education and shall be utilized for the operation of the locally operated vocational center.*
- (2) *A certified employee who is affected by a transfer to the local board of education under subsection (1) of this section shall be granted a one (1) year limited contract by the local board of education and shall be employed on the local district salary schedule. A classified employee shall be guaranteed employment equal to his or her present status for at least one (1) complete school term. A transferred employee shall be provided the benefits of comparable employees in the district and shall be subject to all rules and policies of the local board of education, including but not limited to disciplinary and personnel actions that are the same as those that may be exercised by the district for any other employee in the district during a contract period.*
- (3) *A transferred employee who has accrued annual leave and compensatory time shall be paid a lump sum for the accrued time at the effective date of the transfer by the Department of Education. The employee shall be granted credit for accrued sick leave up to the maximum allowed for transfers of teachers between school districts. Sick leave credit shall be awarded to a classified employee based on the local board policy. Any excess sick leave that a classified or certified employee has earned that the district will not accept in the transfer may be requested to be held in escrow by the appropriate state personnel system under KRS Chapter 18A or Sections 1 to 31 of this Act, and the sick leave balance shall be restored to the employee if the employee returns to a state government position.*
- (4) *An employee who is to be transferred to a local board of education under provisions of this section but who chooses not to accept a one (1) year limited contract with the board shall be separated from the state system and the employee's position shall be abolished. The employee may apply for any state position for which the employee is qualified but shall not be granted priority over other applicants for a position because the employee's position was abolished due to a transfer of the vocational education and technology center. An employee who refuses a contract with the local board shall be provided a lump-sum payment for accrued annual leave and compensatory time, and the employee's sick leave balance shall be placed in escrow by the appropriate state personnel system under KRS Chapter 18A or Sections 1 to 31 of this Act. The sick leave balance shall be restored to the employee if the employee returns to a state government position.*
- (5) *A certified employee, other than a principal, who has earned continuing status in the state certified personnel system under Sections 1 to 31 of this Act may be granted tenure under the provisions of KRS*

161.740(1)(c). A principal may be granted tenure as a teacher, but the provisions relating to demotion of the principal under KRS 161.765 shall apply.

- (6) *An employee of the Office of Career and Technical Education who is transferred to the local school district and who occupies a position covered by the Kentucky Teachers' Retirement System shall remain in the Kentucky Teachers' Retirement System.*
- (7) *After the effective date of the transfer, the local board of education shall receive funding for the support of the local board of education center operations pursuant to Section 39 of this Act. In addition, the local board of education shall receive one hundred percent (100%) of the Support Education Excellence in Kentucky program funds from the Department of Education that are generated from students enrolled in the center.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding Sections 7, 9, 10, 11, 13, and 16 of this Act, upon approval of the Kentucky Board of Education, a local board of education that has operated an area vocational education and technical center for at least five (5) years may relinquish authority for the management and control of the area vocational education and technical center to the Kentucky Department of Education. The local board of education shall transfer all personnel, equipment, and supplies to the Office of Career and Technical Education within the Kentucky Department of Education.*
- (2) *A certified employee who is affected by a transfer to the Office of Career and Technical Education under subsection (1) of this section shall be granted the same status by the Office of Career and Technical Education as he or she had at the close of employment with the local board of education and shall be employed on the state salary schedule. A classified employee shall be guaranteed employment equal to his or her status in the local school district for at least one (1) complete school term. A transferred employee shall be provided the benefits of comparable employees in the Office of Career and Technical Education and shall be subject to all rules and policies of the Office of Career and Technical Education, including but not limited to disciplinary and personnel actions that are the same as those that may be exercised by the office for any other employee in the Commonwealth during a contract period.*
- (3) *The employee shall be granted credit for accrued sick leave by the Office of Career and Technical Education up to the maximum allowed for transfers of teachers between school districts. The Office of Career and Technical Education shall award sick leave credit to a classified employee based on the sick leave accumulated in the local district. Any excess sick leave that a classified or certified employee earned that had been held in escrow by the appropriate state personnel system under KRS Chapter 18A or Sections 1 to 31 of this Act when the transfer was made to the local board of education shall be restored to the employee.*
- (4) *An employee who is to be transferred to the Office of Career and Technical Education under provisions of this section but who chooses not to accept a contract with the Commonwealth shall be separated from the state system and the employee's position shall be abolished. The employee may apply for any state position for which the employee is qualified but shall not be granted priority over other applicants for a position because the employee's position was abolished due to a transfer of the area vocational education and technical center. An employee who refuses a contract with the Office of Career and Technical Education shall have the employee's sick leave balance placed in escrow by the state personnel system under KRS Chapter 18A or Sections 1 to 13 of this Act. The sick leave balance shall be restored to the employee if the employee returns to a state government position.*
- (5) *A certified employee, other than a principal, who has earned continuing status in the local school district under KRS 161.740(1), shall be granted continuing status under the provisions of Section 13 of this Act. A principal may be granted continuing status as a teacher, but the provisions relating to demotion of the principal under Section 13 of this Act shall apply.*
- (6) *An employee of a local board of education who is transferred to the Office of the Career and Technical Education and who occupies a position covered by the Kentucky Teachers' Retirement System shall remain in the Kentucky Teachers' Retirement System.*
- (7) *General fund moneys previously appropriated to a local board of education for support of the area vocational education and technical center shall be appropriated to the Department of Education.*

➔Section 6. KRS 151B.030 is repealed, reenacted as a new section of KRS Chapter 156, and amended to read as follows:

The Office of Career and Technical Education shall have the following organizational structure:

- (1) The **commissioner of education**~~{secretary of the Education and Workforce Development Cabinet}~~ shall appoint an **assistant**~~{executive director of career and technical education}~~ pursuant to KRS 12.050 and **156.010** and assign duties as appropriate;
- (2)~~{There is hereby created a Division of Secondary Education and Technical Training within the Office of Career and Technical Education. The division shall be headed by a director appointed by the secretary of the Education and Workforce Development Cabinet under KRS 12.050. The division shall be composed of organizational entities as deemed appropriate by the secretary of the Education and Workforce Development Cabinet;}~~
- ~~{3}~~ The appointing authority shall appoint an ombudsman pursuant to KRS 12.050 and specify his or her functions and duties; and
- ~~{3}~~~~{4}~~ The Kentucky Technical Education Personnel Board, pursuant to **Section 23 of this Act**~~{KRS 151B.097}~~, shall be attached to the **Department of Education**~~{Office of Career and Technical Education}~~ for administrative purposes.

➔Section 7. KRS 151B.035 is repealed, reenacted as a new section of KRS Chapter 156, and amended to read as follows:

- (1) The **Kentucky Board of Education**~~{executive director of the Office of Career and Technical Education}~~ shall promulgate, by administrative regulations, personnel policies and procedures for all full-time and part-time unclassified employees, certified and equivalent staff, including administrative, teaching, and supervisory staff in the Office of Career and Technical Education central office and state-operated vocational facilities. All other staff shall remain under the authority of the Kentucky Personnel Cabinet and KRS Chapter 18A. Employees who transfer to or from the KRS Chapter 18A personnel system shall transfer accrued annual, compensatory, and sick leave.
- (2) As provided in **Sections 1 to 31 of this Act**~~{this chapter}~~, the **Kentucky Board of Education**~~{executive director of the Office of Career and Technical Education}~~ shall promulgate~~{comprehensive}~~ administrative regulations for the administration of a personnel system in the Office of Career and Technical Education which are consistent with the provisions of **Sections 1 to 31 of this Act**~~{this chapter}~~ and with federal standards for state government agencies receiving federal grants.
- (3) The **Kentucky Board of Education**~~{executive director of the Office of Career and Technical Education}~~ shall promulgate~~{comprehensive}~~ administrative regulations for full-time and part-time certified and equivalent staff governing:
 - (a) Establishment and abolishment of positions, **including a prohibition against eliminating funding for or abolishment of a teaching position at a state-operated secondary area vocational education and technology center during a school year in which students are enrolled in the program**;
 - (b) Applications;
 - (c) Classification and compensation plans;
 - (d) Incentive programs;
 - (e) Selection of employees;
 - (f) Types of appointments;
 - (g) Attendance, including hours of work, compensatory time, and annual, court, military, sick, voting, and special leaves of absence;
 - (h) Preparation, maintenance, and revision of a position classification plan and an equitable salary schedule for certified and equivalent staff based on qualifications, experience, and responsibilities;
 - (i) Extent and duration of the state-operated area vocational education and technology centers' school term, use of school days, and extended employment;
 - (j) Employee evaluations;
 - (k) Programs to improve the work effectiveness of employees including staff development;
 - (l) Demotion;

- (m) Dismissal;
 - (n) Lay-offs;
 - (o) Suspensions and other disciplinary measures;
 - (p) Probationary periods, limited employment status, and continuing employment status;
 - (q) Promotion;
 - (r) Transfer;
 - (s) Appeals; and
 - (t) Employee grievances and complaints.
- (4) (a) Administrative regulations promulgated by the **Kentucky Board of Education**~~{executive director of the Office of Career and Technical Education}~~ shall comply with the provisions of **Sections 1 to 31 of this Act**~~{this chapter}~~ and KRS Chapter 13A and shall have the force and effect of law~~[- when approved by the commissioner of the Department of Workforce Investment and after compliance with the provisions of KRS Chapter 13A].~~
- (b) Administrative regulations promulgated by the **Kentucky Board of Education**~~{executive director of the Office of Career and Technical Education}~~ shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of **Sections 1 to 31 of this Act**~~{this chapter}~~.
- (c) No administrative body other than the **Kentucky Board of Education**~~{executive director of the Office of Career and Technical Education}~~ shall promulgate administrative regulations governing the subject matters specified in this section.
- (d) Policies and procedures for the implementation of administrative regulations shall be developed by the **Department of Education**~~{Office of Career and Technical Education}~~.
- (5) The commissioner **of education**~~{for the Department of Workforce Investment}~~ shall be the appointing authority with respect to all personnel actions for the Office of Career and Technical Education. The commissioner may authorize a designee to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. Any personnel designation shall be in writing. Authority to employ personnel may be delegated to the vocational school management by the commissioner. Any recommendation for employment from the local level shall be based on guidelines promulgated by the **commissioner of education**~~{executive director}~~ and shall be contingent upon confirmation by the **commissioner of education**~~{executive director}~~.
- (6) The **Kentucky Board of Education**~~{executive director of the Office of Career and Technical Education}~~ shall promulgate other administrative regulations to govern proceedings which relate to certified and equivalent employees and which shall provide for:
- (a) The procedures to be utilized by the Kentucky Technical Education Personnel Board in the conduct of hearings, consistent with KRS Chapter 13B;
 - (b) Discharge, as provided by this section;
 - (c) Imposition, as a disciplinary measure, of a suspension from service without pay for up to thirty (30) working days and, in accordance with the provisions of **Section 13 of this Act**~~{KRS 151B.055}~~, for the manner of notification of the employee of the discipline and right of appeal;
 - (d) Promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, and conduct;
 - (e) Supplementary information for the salary schedule for certified and equivalent staff including teachers, counselors, administrators, managers, and educational consultants in state-operated vocational technical facilities, field offices, and central office in the Office of Career and Technical Education that shall provide uniformity, recognition of education, teaching, and supervisory experience and use as a base the average salary paid to beginning classroom teachers by all public schools in the state for personnel with comparable qualifications and experience. Indexes may be incorporated in the compensation plan for administrative responsibilities. The salary schedule shall be computed annually, and shall be submitted to and approved by the Governor;

- (f) Reemployment of laid-off employees in accordance with the provisions of *Sections 1 to 31 of this Act*~~[this chapter]~~;
 - (g) Establishment of a plan for resolving employee grievances and complaints. The plan shall not restrict rights granted employees by the provisions of *Sections 1 to 31 of this Act*~~[this chapter]~~; and
 - (h) Any other administrative regulations not inconsistent with this chapter and KRS Chapter 13A proper and necessary for its enforcement.
- (7) The *Department of Education*~~[executive director of the Office of Career and Technical Education]~~ shall make investigations, either on petition of a citizen, taxpayer, interested party, or as deemed necessary by the *commissioner*~~[executive director]~~, concerning the enforcement and effect of *Sections 7 to 22 of this Act*~~[KRS 151B.035 to 151B.090]~~, shall require observance of the provisions and the administrative regulations promulgated pursuant to the provisions of *Sections 1 to 31 of this Act*~~[this chapter]~~ and KRS Chapter 13A, and shall make investigation as requested by the General Assembly or the Governor and to report thereon.
 - (8) The *Kentucky Board of Education*~~[executive director of the Office of Career and Technical Education]~~ shall promulgate administrative regulations, pursuant to KRS Chapter 13A, for an appeal system for aggrieved certified or equivalent employees.
 - (9) The Kentucky Technical Education Personnel Board shall hear appeals from applicants for positions or from certified, equivalent, and unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized for cause. Effective August 15, 2000, appeals from assistants and secretaries in the Office of Career and Technical Education attached to policymaking positions shall be governed by KRS 18A.095. The State Personnel Board, established in KRS 18A.045, shall hear appeals that are pending as of August 15, 2000, from assistants and secretaries attached to policymaking positions in the Office of Career and Technical Education.
 - (10) The Kentucky Technical Education Personnel Board may, any statute to the contrary notwithstanding, delegate the conduct of the hearing and the rendition of a recommended order to the full board, to a panel of the board, or to a hearing officer, relative to any hearing appeal, or decision, judicial or quasi-judicial in nature, which the board is empowered or directed, by *Sections 1 to 31 of this Act*~~[this]~~ or any other chapter, to conduct, hear, or make; provided, however, that the full board as provided by statute, makes the final order, based upon the evidence submitted.
 - (11) The *Kentucky Board of Education*~~[executive director of the Office of Career and Technical Education]~~ shall promulgate administrative regulations, pursuant to KRS Chapter 13A, governing the unclassified service including the preparation and maintenance of a salary schedule and other administrative regulations authorized by *Sections 1 to 31 of this Act*~~[this chapter]~~.
 - (12) The annual percentage salary increment for all certified and equivalent employees subject to the personnel system established under *Sections 1 to 31 of this Act*~~[this chapter]~~ shall be at least equal to that funded and provided for other elementary and secondary teachers.
 - (13) The positions of employees who are transferred, effective July 1, 1998, from the former Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees who are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in *Sections 1 to 31 of this Act*~~[the KRS Chapter 151B]~~ or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under *Sections 1 to 31 of this Act*~~[KRS Chapter 151B]~~ or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted toward years of experience for calculating benefits and compensation.

➔Section 8. KRS 151B.037 is repealed, reenacted as a new section of KRS Chapter 156, and amended to read as follows:

All full-time vacancies shall be posted in all schools and offices ten (10) days prior to filling a certified or equivalent position in the classified section of the ~~[KRS Chapter 151B]~~ personnel system *contained in Sections 1 to 31 of this Act*.

➔Section 9. KRS 151B.040 is repealed and reenacted as a new section of KRS Chapter 156 to read as follows:

- (1) All certified, equivalent, and unclassified employees in the Office of Career and Technical Education shall be:

- (a) Provided the same health insurance coverage as all other state government employees provided in KRS 18A.225;
 - (b) Eligible to participate in the deferred compensation system provided for all state government employees by KRS 18A.250 to 18A.265;
 - (c) Provided the same life insurance coverage provided all state employees pursuant to KRS 18A.205 to 18A.215;
 - (d) Reimbursed for all reasonable and necessary travel expenses and disbursements incurred or made pursuant to KRS 45.101 in the performance of their official duties; no part of the reimbursement shall be included in or accounted as a part of their salaries;
 - (e) Ensured equal employment opportunity regardless of race, color, religion, national origin, disability, sex, or age; and
 - (f) Given those holidays and rights granted state employees pursuant to KRS 18A.190.
- (2) Employees under the jurisdiction of the former Department for Technical Education who are members of a state retirement system as of June 30, 1990, shall remain in their respective retirement systems. All new certified and equivalent employees hired by the office shall be placed in the Kentucky Teachers' Retirement System.

➔Section 10. KRS 151B.045 is repealed, reenacted as a new section of KRS Chapter 156, and amended to read as follows:

- (1) The records of the Office of Career and Technical Education shall be public records and shall be open to public inspection, as provided in KRS 61.870 to 61.884.
- (2)
 - (a) A personnel file shall be maintained by the *Department of Education* ~~and Workforce Development Cabinet~~ for each employee. The files maintained by the *Department of Education* ~~and Workforce Development Cabinet~~ shall be the official personnel file for the employees.
 - (b) Each file shall include but not be limited to the employee's name, address, title of positions held, classifications, rates of compensation, and all changes in status, including evaluations, promotions, demotions, lay-offs, transfers, disciplinary actions, commendations, and awards. Each file shall contain the complete record and supporting documentation for each personnel action.
 - (c) When an employee is reprimanded for misconduct, other infraction, or failure to perform duties in a proper or adequate manner, the supervising employee taking the action shall document the action in detail, and shall provide the employee with a copy of the documentation. The supervising employee shall inform the employee of his or her right to prepare a written response to the action taken after the employee has reviewed the written documentation prepared by the supervising employee. The employee's response shall be attached to the documentation prepared by the supervising employee. The supervising employee shall place a copy of the documentation and response in the employee's personnel file and shall transmit a copy to be placed in the central office personnel file of the employee. The supervising employee shall notify the employee that copies of the documentation and the response provided for in this subsection have been placed in the employee's personnel files.
- (3) Upon written request, an employee shall have the right to examine his or her personnel file. An employee may comment in writing on any item in the file. The comments shall be made a part of the file and shall be attached to the specific record or document to which they pertain.
- (4) No public agency, as defined by KRS 61.870, and no officer or employee shall deny, abridge, or impede the exercise of the rights granted in any manner by this section and by KRS 61.878.

➔Section 11. KRS 151B.050 is repealed, reenacted as a new section of KRS Chapter 156, and amended to read as follows:

Except as provided by the provisions of *Sections 1 to 31 of this Act* ~~this chapter~~, the appointing authority or designee for the Office of Career and Technical Education may refuse to consider an applicant for a certified or equivalent position or, after consideration, may disqualify the applicant or may remove an employee already appointed if:

- (1) It is found that the person did not maintain certification or that certification has been revoked for the position;
- (2) The person is unable to perform the duties of the position;

- (3) The person made a false statement of material fact in the application;
- (4) The application was not submitted correctly or within the prescribed time limits;
- (5) The person has been convicted of a felony within the preceding five (5) years and has not had civil rights restored or has not been pardoned by the Governor;
- (6) The person has been convicted of a job related misdemeanor, except that convictions for violations of traffic regulations shall not constitute grounds for disqualification;
- (7) The person has previously been dismissed from a position in his department for cause or has resigned while charges for dismissal for cause of which the person had knowledge were pending; or
- (8) The person has otherwise violated the provisions of *Sections 1 to 31 of this Act*~~[this chapter]~~.

➔Section 12. KRS 151B.052 is repealed, reenacted as a new section of KRS Chapter 156, and amended to read as follows:

Subject to the provisions of *Section 13 of this Act*~~[KRS 151B.055]~~, any certified and equivalent employee who is convicted of a felony or job-related misdemeanor may be subject to any disciplinary action deemed appropriate, including dismissal.

➔Section 13. KRS 151B.055 is repealed, reenacted as a new section of KRS Chapter 156, and amended to read as follows:

- (1) All certified and equivalent employees who previously held merit status under KRS Chapter 18A shall become continuing status employees in the Office of Career and Technical Education.
- (2) Prior to dismissal, an employee with continuing status shall be notified in writing of the intent to dismiss. The notice shall also state:
 - (a) The specific reasons for dismissal including:
 1. The statutory or regulatory violation;
 2. The specific action or activity on which the intent to dismiss is based;
 3. The date, time, and place of the action or activity; and
 4. The name of the parties involved; and
 - (b) That the employee has the right to appear personally, or with counsel if counsel has been retained, to reply to the appointing authority or a designee.
- (3) The Office of Career and Technical Education shall prescribe and distribute a form to be completed and forwarded by an employee who wishes to appear before the appointing authority or a designee. The form shall be attached to every notice of intent to dismiss, and shall contain written instructions explaining:
 - (a) The right granted an employee under the provisions of this section relating to pretermination hearings; and
 - (b) The time limits and procedures to be followed by all parties in pretermination hearings.
- (4) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day of receipt of notice, the employee may request to appear, personally or with counsel if counsel is retained, to reply to the appointing authority or a designee.
- (5) The appearance shall be held six (6) working days after receipt of an employee's request to appear before the appointing authority or a designee, excluding the day the employee's request is received, unless the employee and the appointing authority or a designee agree to a later date.
- (6) No later than five (5) working days after the employee appears before the appointing authority or a designee, excluding the day of the appearance, the appointing authority or a designee shall:
 - (a) Determine whether to dismiss the employee or to alter, modify, or rescind the intent to dismiss; and
 - (b) Notify the employee in writing of the decision.
- (7) If the appointing authority or a designee determines that the employee shall be dismissed, the employee shall be notified in writing of:
 - (a) The effective date of dismissal or other penalization;

- (b) The specific reason for the action, including:
 - 1. The statutory or regulatory violation;
 - 2. The specific action or activity on which the dismissal is based;
 - 3. The date, time, and place of the action or activities; and
 - 4. The names of the parties involved; and
 - (c) That the employee may appeal the dismissal to the Kentucky Technical Education Personnel Board within thirty (30) days after receipt of this notification, excluding the day the notice is received.
- (8) A certified or equivalent employee with continuing status who is demoted or suspended shall be notified in writing of:
- (a) The demotion or suspension;
 - (b) The effective date of the demotion or suspension;
 - (c) The specific reason for the action including:
 - 1. The statutory or regulatory violation;
 - 2. The specific action or activity on which the demotion or suspension is based;
 - 3. The date, time, and place of the action or activity; and
 - 4. The name of the parties involved; and
 - (d) That the employee has the right to appeal to the Kentucky Technical Education Personnel Board within thirty (30) days, excluding the day of receipt of notification.
- (9) Any employee or applicant for employment may appeal to the board on the grounds that the right to inspect or copy records, including preliminary and other supporting documentation, relating to the employee has been denied, abridged, or impeded. The board shall conduct a hearing to determine if the records related to the employee or applicant, and if the right to inspect or copy was denied, abridged, or impeded. If the board determines that the records related to the employee and that the right to inspect or copy the records has been denied, abridged, or impeded, the board shall order that the records be made available for inspection and copying.
- (10) Any certified, equivalent, or unclassified employee may appeal an action alleged to be based on discrimination due to race, color, religion, national origin, sex, disability, or age to the board. Nothing in this section shall be construed to preclude any employee from filing with the Kentucky Commission on Human Rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, disability, or age in accordance with KRS Chapter 344.
- (11) (a) Appeals to the Kentucky Technical Education Personnel Board shall be in writing on an appeal form prescribed by the Office of Career and Technical Education. Appeal forms shall be available at the employee's place of work. The Office of Career and Technical Education shall be responsible for the distribution of the forms.
- (b) The appeal form shall be attached to any notice, or copy of the notice, of dismissal, demotion, suspension, involuntary transfer, or other penalization, or notice of any other action an employee may appeal under the provisions of this section.
 - (c) Upon receipt of the appeal by the board, the appointing authority or a designee shall be notified, and the board shall schedule a hearing that shall be conducted in accordance with KRS Chapter 13B.
- (12) (a) Except as provided in this section, an appeal shall be decided by the board only after a hearing. The board shall not deny, reject, or sustain an appeal, or make any other determination relating to an appeal, except after a hearing is conducted pursuant to the provisions of this section and KRS Chapter 13B.
- (b) The board may deny a hearing to an employee who has failed to file an appeal over which the board has jurisdiction or within the time prescribed by this section and to an unclassified employee who has failed to state the cause for dismissal. The board shall notify the employee of its denial in writing and shall inform the employee of his or her right to appeal the denial under the provisions of *Section 14 of this Act* [KRS 151B.060].

- (c) Any investigation by the board of any matter related to an appeal filed by an employee shall be conducted only upon notice to the employee, the employee's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by the investigations and the information shall be presented at the hearing. Any party to the hearing shall be permitted an adequate opportunity to rebut or comment upon the information.
- (13) Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:
 - (a) Employ class action procedures; or
 - (b) Conduct test representative cases.
- (14) Board members shall abstain from public comment about a pending or impending proceeding before the board. This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.
- (15) (a) If the board finds that the action complained of was taken by the appointing authority or designee in violation of laws prohibiting favor for, or discrimination against, or bias with respect to political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of the individual's sex, age, or disability, the appointing authority or designee shall immediately reinstate the employee to his or her former position or a position of like status and pay, without loss of pay for the period of penalization, or otherwise make the employee whole;
- (b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employee to his or her former position or a position of like status and pay, without loss of pay for the period of penalization, or otherwise make the employee whole;
- (c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall alter, modify, or rescind the disciplinary action; and
- (d) In all other cases, the board shall rescind the action taken or grant other relief to which the employee is entitled.
- (16) If a final order of the board is appealed, a court shall award reasonable attorney's fees to an employee who prevails by a final adjudication on the merits as provided by KRS 453.260. The award shall not include attorney's fees attributable to the hearing before the board.

➔Section 14. KRS 151B.060 is repealed and reenacted as a new section of KRS Chapter 156 to read as follows:

- (1) Any final order of the board either upholding or invalidating the dismissal, demotion, suspension, or other penalization of a certified, equivalent, or unclassified employee may be appealed either by the employee or by the appointing authority.
- (2) The party aggrieved may appeal the final order by filing a petition with the clerk of the Franklin Circuit Court in accordance with KRS Chapter 13B.
- (3) If the appeal is from an order upholding the dismissal, demotion, suspension, or other penalization, the burden of appearing and defending the action of the board shall be upon the appointing authority. If the appeal is from an order refusing to uphold the dismissal, demotion, suspension, or other penalization, the burden of appearing and defending the action of the board shall be upon the employee.

➔Section 15. KRS 151B.065 is repealed, reenacted as a new section of KRS Chapter 156, and amended to read as follows:

- (1) (a) When a certified, equivalent, or unclassified employee has been finally ordered reinstated without loss of pay, pursuant to the provisions of *Section 14 of this Act* ~~[KRS 151B.060]~~, the board shall forward a certified copy of the order to the *Department of Education* ~~[Office of Career and Technical Education]~~. The *department* ~~[office]~~ shall process proper payment to the employee for the period of suspension, the payment to be made out of the agency's appropriations. If no funds or insufficient funds are available in the agency's appropriations, then payment shall be made out of the judgments section of the general fund of the biennial state budget.
- (b) Gross moneys which are earned by the employee from other sources during the period of suspension shall set off against the gross sum due the employee, to the extent that the moneys were earned in a

number of hours comparable to the length of time the employee would have worked in the previous job where dismissal occurred. The executive director of the Office of Career and Technical Education shall by regulation provide an administrative procedure for determining reasonable earnings to be set off.

- (c) All other deductions shall be deducted as required by law or by other state regulation.
- (2) (a) Both the employee's and employer's contributions to the Kentucky Teachers' Retirement System or the Kentucky Employees Retirement System shall be based upon the gross amount due the employee, before set-off or deduction, except for set-off caused by earnings on which employee and employer contributions to the Kentucky Teachers' Retirement System or the Kentucky Employees Retirement System have been paid.
- (b) Member and employer contributions paid into the system in which the employee participated after dismissal shall be transferred to the system in which the employee participated prior to illegal dismissal. In the event of a difference in member or employer contribution rates between the retirement system under which the member was covered prior to dismissal and the retirement system of participation before reinstatement by the board, the member and employer shall pay or receive a refund in order to adjust their respective contribution to the appropriate rate for the system under which the employee would have participated if dismissal had not occurred.

➔Section 16. KRS 151B.070 is repealed, reenacted as a new section of KRS Chapter 156, and amended to read as follows:

- (1) All certified and equivalent employees shall serve a one (1) year probationary period for renewal of limited status. An employee may be separated from the position or reduced in class during this initial probationary period and shall not have a right to appeal except as provided in *Section 13 of this Act* ~~[KRS 151B.055]~~. If the employee is separated from the position, notice in writing shall be received at least ten (10) working days prior to separation. A copy of the notification shall be forwarded to the commissioner. Unless the commissioner notifies the employee of separation prior to the end of the initial probationary period, the employee shall be eligible for renewable limited status. Limited status employees are subject to reemployment on an annual basis. Limited status employees may be dismissed without cause before the annual anniversary date.
- (2) After completion of the initial probationary period, the individual shall be considered on limited status until successful completion of the fourth year, at which time the employee may be placed on continuing status.
- (3) An employee who has been assigned continuing status may not be demoted, disciplined, or dismissed without cause except as provided by provisions in *Sections 1 to 31 of this Act* ~~[this chapter]~~.
- (4) An employee with continuing status who has been promoted shall serve a probationary period of one (1) year in the new position. During the period of promotional probation, the employee shall retain the rights and privileges granted by the provisions of *Sections 1 to 31 of this Act* ~~[this chapter]~~ to continuing status employees.
- (5) During the promotional probationary period, the employee with continuing status may be reverted at the discretion of the appointing authority to a position in the class formerly held.
- (6) A continuing status employee who has been laid-off may return to a position with continuing status if an appropriate position is available.

➔Section 17. KRS 151B.075 is repealed, reenacted as a new section of KRS Chapter 156, and amended to read as follows:

- (1) The *commissioner of education* ~~[executive director of the Office of Career and Technical Education]~~ shall adopt written evaluation procedures for all certified and equivalent employees *of the Office of Career and Technical Education*. The procedures shall be based upon recommendations received from a committee composed of equal numbers of teachers, counselors, and administrators *of the Office of Career and Technical Education*.
- (2) Evaluations shall be in writing. An evaluator shall follow all statutory and regulatory provisions for evaluation and shall present and explain all documentation affecting an employee's evaluation, as well as discuss every aspect of performance with the employee at each evaluation. The evaluator shall solicit the employee's opinions and suggestions and shall advise the employee of the measures needed to improve performance.
- (3) Each full-time employee who has completed initial probation, and each part-time employee who works over one hundred (100) hours each month and who has completed initial probation shall be evaluated.

- (4)
 - (a) The first-line supervisor of an employee shall be the evaluator, providing the period of supervision has been for a period of at least ninety (90) calendar days.
 - (b) If the evaluator has supervised an employee for at least ninety (90) calendar days and ceases to be the employee's first-line supervisor after such period of time, the evaluation of the employee shall be at least five (5) working days prior to the day when the responsibility for supervision ceases.
 - (c) If the first-line supervisor ceases to be the supervisor of an employee due to the suspension, demotion, or dismissal of the first-line supervisor, paragraph (b) of this subsection shall not apply.
 - (d) If the first-line supervisor ceases to be an employee's supervisor because the employee transfers, the first-line supervisor shall evaluate the employee prior to transfer, if the period of supervision of the employee is not less than ninety (90) calendar days prior to notification of transfer.
- (5) Teachers and administrators in the state-operated secondary area vocational education and technology centers shall be evaluated in the following categories and appropriate criteria for each category shall be described in the written evaluation procedure:
 - (a) School or classroom management, as appropriate;
 - (b) Job knowledge and skills;
 - (c) Instructional management;
 - (d) Employee conduct; and
 - (e) Professional responsibility.
- (6) All other certified and equivalent staff in the field and in the central office shall be evaluated in the following categories with appropriate criteria described in written evaluation procedures:
 - (a) Job knowledge and skills;
 - (b) Quality of work;
 - (c) Employee conduct; and
 - (d) Professional responsibility.
- (7) There shall be established by the *commissioner of education*~~executive director~~ an evaluation appeals procedure for certified or equivalent personnel in the Office of Career and Technical Education.
- (8)
 - (a) Within five (5) working days of an evaluation, an employee may request reconsideration of the evaluation by the evaluator.
 - (b) Within five (5) working days of the reconsideration, an employee may:
 1. Submit a written response to any evaluation which shall be attached to the evaluation; and
 2. Submit a written request for reconsideration of any evaluation to the second-line supervisor.
 - (c) No later than fifteen (15) working days after receipt of the request, the second-line supervisor shall inform the employee and the evaluator in writing of the decision after the second-line supervisor has:
 1. Obtained written statements from both the employee and the evaluator; or
 2. Met with the employee and the evaluator; and
 3. Reviewed the evaluation process according to statutory or regulatory requirements as well as the ratings.
- (9) Within thirty (30) days after the employee has received the written decision of the second-line supervisor, the employee may appeal an evaluation to the next level. For the state-operated secondary area vocational education and technology centers, this appeal shall go to the ombudsman for mediation. If not resolved at this level, the employee may file an appeal with the appointing authority or designee~~of the Office of Career and Technical Education~~ who shall make a final ruling. For other employees in the Office of Career and Technical Education, this appeal shall go to the appropriate office head and then to the appointing authority or designee.
- (10) If an employee receives an overall unsatisfactory evaluation rating on two (2) successive evaluations, the employee shall be:
 - (a) Demoted to a position commensurate with abilities; or

(b) Terminated.

➔Section 18. KRS 151B.080 is repealed, reenacted as a new section of KRS Chapter 156, and amended to read as follows:

- (1) It shall be unlawful to coerce certified and equivalent employees who may be or who are subject to lay-off to resign or retire in lieu of lay-off. Dismissals shall comply with applicable statutes and lay-offs shall not be utilized as a method of dismissal.
- (2) In the same office, county, and job classification, temporary, emergency, limited status, and probationary employees shall be laid-off before permanent full-time or permanent part-time employees with continuing status. The Office of Career and Technical Education shall not transfer positions, including vacant positions, in order to circumvent the provisions of this section.
- (3) If two (2) or more employees subject to lay-off in a lay-off plan submitted to the **commissioner of education**~~executive director~~ have the same qualifications and similar performance evaluations, the employee with the lesser seniority shall be laid-off first.
- (4) An employee who is laid-off shall be placed on a reemployment list for the class of position from which laid-off and for any class for which such employee is qualified.
- (5) For a period of three (3) years, laid-off employees shall be considered before any applicant from outside the Office of Career and Technical Education, except another laid-off employee with more seniority who is already on the list.
- (6) For a period of three (3) years, a laid-off employee shall not be removed from the list unless:
 - (a) The laid-off employee notifies the office in writing that he or she no longer wishes to be considered for a position on the list;
 - (b) Two (2) written offers of appointment are declined, the offers to be for a position of the same classification and salary, and located in the same county or contiguous counties, as the position from which laid-off;
 - (c) Two (2) written offers to schedule an interview are made and the laid-off employee fails to respond to a certified letter requesting the laid-off employee to schedule an interview within ten (10) working days;
 - (d) The laid-off employee fails to report for an interview after notification in writing at least ten (10) calendar days prior to the date of the interview;
 - (e) The laid-off employee cannot be located by postal authorities at the last address provided; or
 - (f) The laid-off employee has willfully violated the provisions of **Sections 1 to 31 of this Act**~~this chapter~~.
- (7) When a laid-off employee has accepted a bona fide offer of appointment to any position, effective on a specified date, the employee's name may be removed from the list for all classes for which the maximum salary is the same as or less than that of the class of appointment.
- (8) When a laid-off employee is removed from the reemployment list, the employee shall be notified in writing and shall be notified of the right to appeal to the board under provisions of **Section 13 of this Act**~~KRS 151B.055~~.

➔Section 19. KRS 151B.085 is repealed, reenacted as a new section of KRS Chapter 156, and amended to read as follows:

- (1) A lay-off of an employee with continuing status in the Office of Career and Technical Education due to the abolition of a position, lack of funds, or economic or employment trends resulting in a lack of work or a material change in duties or organization shall comply with the provisions of this section.
- (2) Prior to the notification of lay-off and prior to the lay-off of an employee, the **Department of Education**~~office~~ shall prepare a lay-off plan. The plan shall contain the name of the employee and the reasons, in detail, for the lay-off. Upon approval of the plan by the appointing authority or designee, the employee shall be notified of the pending lay-off, and of:
 - (a) The reason for the lay-off;
 - (b) The procedures established by the provisions of **Section 18 of this Act**~~KRS 151B.080~~, and this section for the lay-off of employees; and

- (c) The rights granted employees subject to lay-off and to laid-off employees.
- (3) (a) An employee subject to lay-off shall be considered for a vacant position within the office of the same pay grade, level of duties, and responsibilities for which the employee is qualified.
- (b) If a vacancy does not exist, the employee shall be considered for any vacant position within his office for which qualifications are held.
- (4) If no position is available to an employee subject to lay-off under the procedure established by subsection (3) of this section, the employee shall be notified of the layoff in writing at least thirty (30) days prior to implementation of the lay-off.

➔Section 20. KRS 151B.086 is repealed, reenacted as a new section of KRS Chapter 156, and amended to read as follows:

- (1) A continuing status employee may appeal his lay-off on the grounds that the procedures in *Section 19 of this Act*~~[KRS 151B.085]~~ were not followed.
- (2) An appeal filed by a continuing status employee shall be filed with the board within thirty (30) days of the effective date of the lay-off. The board shall hear any appeal filed by a continuing status employee within sixty (60) days of the filing date, and it shall render a final order within ninety (90) days of the filing date.

➔Section 21. KRS 151B.087 is repealed and reenacted as a new section of KRS Chapter 156 to read as follows:

- (1) A final order of the board either upholding or invalidating the lay-off of a continuing status employee may be appealed either by the employee or by the appointing authority.
- (2) The party aggrieved may appeal that order by filing a petition with the clerk of the Franklin Circuit Court in accordance with KRS Chapter 13B.

➔Section 22. KRS 151B.090 is repealed and reenacted as a new section of KRS Chapter 156 to read as follows:

- (1) No certified or equivalent employee shall be appointed or promoted to, or demoted or dismissed from, any position or in any way favored or discriminated against with respect to employment because of political or religious opinions or affiliations, ethnic origin, sex, disability, or age.
- (2) No person shall use or promise to use, directly or indirectly, any official authority to influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position requiring certification or equivalent, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of a person.
- (3) No certified or equivalent employee nor the commissioner shall directly or indirectly, pay or promise to pay any assessment for political purposes, or solicit or take any part in soliciting for any political party, or solicit or take any part in soliciting any political assessment, subscription, contribution, or service. No person shall solicit any political assessment, subscription, contribution, or service of any certified or equivalent employee.
- (4) No certified or equivalent employee shall be a member of any national, state, or local committee of a political party, or an officer or member of a committee of a partisan political club, or a candidate for nomination or election to any paid public office, or shall take part in the management or affairs of any political party or in any political campaign, except to exercise the right as a citizen privately to express an opinion and to cast a vote. Certified or equivalent employees may be candidates for and occupy a town or school district office if the office is one for which no compensation, other than a per diem payment, is provided and the election is on a nonpartisan basis.

➔Section 23. KRS 151B.097 is repealed, reenacted as a new section of KRS Chapter 156, and amended to read as follows:

- (1) The Kentucky Technical Education Personnel Board is hereby established to conduct personnel appeals from certified and equivalent employees in the Office of Career and Technical Education under *Sections 1 to 31 of this Act*~~[KRS Chapter 151B]~~. Appeals shall be conducted in accordance with the provisions established in KRS Chapter 13B. The board shall be attached to the *Department of Education*~~[Office of Career and Technical Education]~~ for administrative purposes.
- (2) The Kentucky Technical Education Personnel Board shall be composed of five (5) voting members, three (3) of whom shall be selected from employees~~[of agencies]~~ within the *Department of Education*~~[and Workforce]~~

~~Development Cabinet~~, except no member shall be an employee within ~~the Office of the Secretary or~~ the Office of Career and Technical Education. The remaining two (2) members shall be teachers employed by the Office of Career and Technical Education's Area Technology Centers. The election of the teacher representatives may be conducted by written ballot, Internet balloting, intranet balloting, or electronic mail. The teacher candidates may be present when the balloting is tallied. All votes cast shall be tallied by an independent entity.

(a) The Governor shall appoint the two (2) members elected by the teachers employed by the Office of Career and Technical Education's Area Technology Centers and the three (3) members selected from employees ~~of agencies~~ within the *Department of Education* ~~and Workforce Development Cabinet~~. All members shall be appointed by the Governor to four (4) year terms, and each term shall end on June 30 of the fourth year.

(b) Terms of new members or reappointed members shall begin on July 1 of the year beginning their term. If a vacancy occurs during a term, the Governor shall appoint a replacement to serve the remainder of the unexpired term within thirty (30) days of the vacancy. The Governor shall select a replacement from the group where the vacancy occurred. The manner of selection for the replacement shall be the same as the manner of the original selection.

~~(c)(b)~~ The members shall possess an understanding of the personnel system established in *Sections 1 to 31 of this Act* ~~[KRS Chapter 151B]~~.

~~(d)(e)~~ A chair shall be elected annually by members of the board.

(3) The board shall meet as necessary to comply with time frames for conducting personnel appeals under KRS Chapter 13B and *Sections 1 to 31 of this Act* ~~[KRS Chapter 151B]~~, and at other times as deemed necessary by the chair of the board. For meetings of the board, a majority of the voting members shall be present to constitute a quorum for the transaction of business.

(4) The Office of Career and Technical Education shall provide administrative, budgetary and support staff services for the board.

(5) *Pursuant to KRS 156.010*, employees of the *Department of Education* ~~and Workforce Development Cabinet~~ who serve as members of the board shall not receive additional salary for serving as members on the board. However, upon approval of the *commissioner of education* ~~executive director of the Office of Career and Technical Education~~, board members shall be entitled to reimbursement of actual and necessary expenses incurred while performing their duties as an active member of the board.

(6) During personnel appeals conducted by the board, both parties shall be given the opportunity to have a representative present at each step of the process.

➔Section 24. KRS 151B.112 is repealed and reenacted as a new section of KRS Chapter 156 to read as follows:

The Office of Career and Technical Education shall have the management and control of state-operated secondary area vocational education and technology centers, and all programs and services operated in these centers.

➔Section 25. KRS 151B.120 is repealed, reenacted as a new section of KRS Chapter 156, and amended to read as follows:

(1) The vice president of the Kentucky Adult Education Program in the Council on Postsecondary Education and the *commissioner of education* ~~executive director of the Office of Career and Technical Education~~ may enter into agreements to train workers for new manufacturing jobs in new or expanding industries characterized by one (1) or more of the following criteria: a high average skill, a high average wage, rapid national growth, or jobs feasible and desirable for location in rural regions. Such agreements ~~shall be subject to review and approval by the secretary of the Education and Workforce Development Cabinet and~~ shall not be subject to the requirements of KRS 45A.045 and KRS 45A.690 to 45A.725 when awarded on the basis of a detailed training plan approved by the appropriate agency head. Reimbursement to the industry shall be made upon submission of documents validating actual training expenditure not to exceed the amount approved by the training plan.

(2) The vice president and the *commissioner of education* ~~executive director~~ may approve authorization for his or her agency to enter into agreements with industries whereby the industry may be reimbursed directly for the following services:

(a) The cost of instructors' salaries when the instructor is an employee of the industry to be served;

- (b) Cost of only those supplies, materials, and equipment used exclusively in the training program; and
- (c) Cost of leasing a training facility should a vocational education school or the industrial plant not be available.

➔Section 26. KRS 151B.145 is repealed and reenacted as a new section of KRS Chapter 156 to read as follows:

This state accepts and agrees to comply with all the provisions of the Acts of Congress of the United States approved February 23, 1917, and all subsequent acts relating to vocational education, the purpose of which is to provide training, develop skills, abilities, understandings, attitudes, work habits, and appreciation, and to impart knowledge and information needed by workers to enter into and make progress in their chosen vocations. These training opportunities shall be provided for the young people who are enrolled in the regular day schools and, also, for out-of-school youth and adults, both employed and unemployed, who are in need of and can profit by vocational training.

➔Section 27. KRS 151B.150 is repealed, reenacted as a new section of KRS Chapter 156, and amended to read as follows:

The **Kentucky Board of Education**~~[executive director of the Office of Career and Technical Education]~~ is vested with the authority to carry out the purposes of the program of vocational education and the provisions of the Acts of Congress accepted by **Section 26 of this Act**~~[KRS 151B.145]~~, and is given all the necessary power and authority in promulgating administrative regulations and administering vocational education and carrying out the provisions of the acts relating thereto.

➔Section 28. KRS 151B.155 is repealed, reenacted as a new section of KRS Chapter 156, and amended to read as follows:

The State Treasurer is custodian of all money received by the state from the federal government under the federal acts accepted by **Section 26 of this Act**~~[KRS 151B.145]~~, and the State Treasurer shall collect the money and pay it out upon the order of the **commissioner of education**~~[secretary of the Education and Workforce Development Cabinet]~~.

➔Section 29. KRS 151B.165 is repealed, reenacted as a new section of KRS Chapter 156, and amended to read as follows:

Tuition and fees for secondary pupils enrolled in the state secondary area vocational education and technology centers operated by the Office of Career and Technical Education shall be free to all residents of Kentucky. The **Kentucky Board of Education**~~[executive director of the Office of Career and Technical Education]~~ shall fix the rate of tuition and fees for adults who are enrolled in secondary programs in the state-operated area vocational education and technology centers under its control. Adult students enrolled in full-time postsecondary programs under the jurisdiction of the Kentucky Community and Technical College System that are physically located in an area vocational education or technology center shall pay the tuition as established by the Council on Postsecondary Education and fees as established by the board of regents for the Kentucky Community and Technical College System.

➔Section 30. KRS 151B.170 is repealed, reenacted as a new section of KRS Chapter 156, and amended to read as follows:

The **commissioner of education**~~[executive director of the Office of Career and Technical Education]~~ may provide liability insurance for licensed and nonlicensed motor vehicles owned or operated by the Office of Career and Technical Education in vocational schools and centers. If the transportation of members of the student bodies is let out under contract, the contract shall require the contractor to carry an indemnity bond or liability insurance against negligence in such amounts as the **commissioner of education**~~[executive director of the Office of Career and Technical Education]~~ designates. In either case, the indemnity bond or insurance policy shall be issued by a surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment not to exceed the limits of the policy rendered against the insured for loss or damage to property of any student or other person, or death or injury of any student or other person.

➔Section 31. KRS 151B.175 is repealed, reenacted as a new section of KRS Chapter 156, and amended to read as follows:

- (1) The **Kentucky Board of Education**~~[executive director of the Office of Career and Technical Education]~~ is authorized to provide medical and accident insurance for students enrolled in the state secondary area technology centers and area vocational education centers. The **Department of Education**~~[Office of Career and Technical Education]~~ may enter into a contract or contracts with one (1) or more sureties or insurance companies or their agents to provide appropriate medical and accident insurance coverage and to provide

group coverage to all students enrolled in state-operated schools under its jurisdiction. The appropriate group coverage shall be issued by one (1) or more sureties or insurance companies authorized to transact business in this state, and such coverage shall be approved by the commissioner of insurance.

- (2) The **Kentucky Board of Education**~~{executive director of the Office of Career and Technical Education}~~ shall promulgate administrative regulations to implement the medical and accident insurance program. The **Kentucky Board of Education**~~{executive director of the Office of Career and Technical Education}~~ may fix the rate of fees for all secondary students, the provisions of **Section 29 of this Act**~~{KRS 151B.165}~~ with respect to fees for secondary students notwithstanding, as he or she deems necessary to meet the expense in whole or in part for appropriate student medical and accident insurance.
- (3) The limits of liability and other appropriate provisions for student medical and accident insurance authorized by this section shall be set by the **Kentucky Board of Education**~~{executive director of the Office of Career and Technical Education}~~.

➔Section 32. KRS 151B.125 is repealed and reenacted as a new section of KRS Chapter 164 to read as follows:

- (1) For purposes of any public employment, a high school equivalency diploma or a regular high school diploma obtained through participation in the external diploma program shall be considered equal to a high school diploma issued under the provisions of KRS 158.140.
 - (a) A high school equivalency diploma shall be issued without charge upon successfully passing the test given by the Kentucky Adult Education Program's approved testing centers in conformance with requirements of the General Educational Development Testing Service of the American Council on Education. A fee may be assessed by the Kentucky Adult Education Program for the issuance of a duplicate high school equivalency diploma and for issuance of a duplicate score report. All fees collected for duplicate diplomas and score reports shall be used to support the adult education program.
 - (b) As an alternative to receiving a high school equivalency diploma, persons who are twenty-five (25) years or older may obtain a high school diploma through participation in the external diploma program. The diploma shall be issued upon achieving one hundred percent (100%) mastery on the competencies established by the American Council on Education. The Kentucky Adult Education Program may enter into agreements with local school districts to confer the high school diploma on successful participants in the external diploma program.
- (2) The Kentucky Adult Education Program is authorized to contract annually with an institution of higher education or other appropriate agency or entity for scoring the GED examination essay.

➔Section 33. KRS 151B.127 is repealed and reenacted as a new section of KRS Chapter 164 to read as follows:

The General Assembly recognizes the critical condition of the educational level of Kentucky's adult population and seeks to stimulate the attendance at, and successful completion of, programs that provide a high school equivalency diploma. Incentives shall be provided to full-time employees who complete a high school equivalency diploma program within one (1) year and their employers. For purposes of this section "equivalent diploma" means a high school equivalency diploma issued after successful completion of the General Educational Development tests.

- (1) The Kentucky Adult Education Program within the Council on Postsecondary Education shall promulgate administrative regulations to establish the operational procedures for this section. The administrative regulations shall include but not be limited to the criteria for:
 - (a) A learning contract that includes the process to develop a learning contract between the student and the adult education instructor with the employer's agreement to participate and support the student;
 - (b) Attendance reports that validate that the student is studying for the high school equivalency diploma during the release time from work;
 - (c) Final reports that qualify the student for the tuition discounts under subsection (2)(a) of this section and that qualify the employer for tax credits under subsection (3) of the section.
- (2) (a) An individual who has been out of secondary school for at least three (3) years, develops and successfully completes a learning contract that requires a minimum of five (5) hours per week to study for the high school equivalency diploma tests, and passes the tests shall earn a tuition discount of two hundred fifty dollars (\$250) per semester for a maximum of four (4) semesters at one (1) of Kentucky's public postsecondary institutions.

- (b) The program shall work with the postsecondary institutions to establish notification procedures for students who qualify for the tuition discount.
- (3) An employer who assists an individual to complete his or her learning contract under the provisions of this section shall receive a state tax credit against the income tax imposed by KRS 141.020 or 141.040, and the limited liability entity tax imposed by KRS 141.0401, with credit ordering as provided in KRS 141.0205 for a portion of the released time given to the employee to study for the tests. The application for the tax credit shall be supported with attendance documentation provided by the Kentucky Adult Education Program and calculated by multiplying fifty percent (50%) of the hours released for study by the student's hourly salary, and not to exceed a credit of one thousand two hundred fifty dollars (\$1250).

➔Section 34. KRS 151B.130 is repealed, reenacted as a new section of KRS Chapter 164, and amended to read as follows:

- (1) There is hereby established a nonprofit foundation to be known as the "Foundation for Adult Education." The purpose of the foundation shall be to supplement public funding for adult training in order to expand existing basic skills training programs.
- (2) Funding for the foundation shall be obtained through contributions by the private sector. The foundation shall be empowered to solicit and accept funds from the private sector to be used for grants to local education agencies to fund adult basic education programs especially designed for business and industry. Contributors may specify that contributed funds be used to improve the educational level of their employees as it relates to the GED instruction program.
- (3) The foundation shall be governed by a board of trustees to be appointed by the *President of the Council on Postsecondary Education* ~~secretary of the Education and Workforce Development Cabinet~~ with responsibility for adult education programs based on recommendations from business, industry, labor, education, and interested citizens. Staff for the board of trustees shall be provided by the *council* ~~cabinet~~.
- (4) The foundation shall be attached to the office of the president of the Council on Postsecondary Education for administrative purposes.

➔Section 35. KRS 151B.410 is repealed and reenacted as a new section of KRS Chapter 164 to read as follows:

- (1) The Kentucky Adult Education Program shall promulgate necessary administrative regulations and administer a statewide adult education and literacy system throughout the state. The adult education and literacy system shall include diverse educational services provided by credentialed professionals, based on the learners' current needs and a commitment to lifelong learning.
- (a) Services shall be provided at multiple sites appropriate for adult learning, including vocational and technical colleges, community colleges, comprehensive universities, adult education centers, public schools, libraries, family resource centers, adult correctional facilities, other institutions, and through the Kentucky Commonwealth Virtual University. Services shall be targeted to communities with the greatest need based on the number of adults at literacy levels I and II as defined by the 1997 Kentucky Adult Literacy Survey and other indicators of need.
- (b) Access and referral services shall be initiated at multiple points including businesses, educational institutions, labor organizations, employment offices, and government offices.
- (c) Multiple funding sources, program support, and partnerships to administer the adult education and literacy system may include student scholarship and grants; fees for services rendered; and other general, agency, local, state, federal, and private funds.
- (2) Services included as part of the adult education and literacy system shall include but not be limited to functionally-contexted workplace essential skills training based on employers' needs, leading to a competency-based certificate indicating proficiency in critical thinking, computing, reading, writing, communicating, problem-solving, team-building, and use of technology at various worksites regarding basic skills.
- (3) In administering an adult education and literacy system, the Kentucky Adult Education Program shall:
- (a) Assist providers with the development of quality job-specific and workplace essential skills instruction for workers in business and industry, literacy and adult basic education, adult secondary education, including high school equivalency diploma preparation, the external diploma program, English as a second language, and family literacy programs, in cooperation with local business, labor, economic development, educational, employment, and service support entities;

- (b) Provide assessments of each student's skill and competency level allowing assessments to be shared with other educational and employment entities when necessary for providing additional educational programs, taking into consideration student confidentiality;
- (c) Assist adult educators to meet professional standards;
- (d) Create an awareness program in cooperation with the Administrative Office of the Courts to ensure that District and Circuit Court Judges are aware of the provisions of KRS 533.200 and the methods to access adult education and literacy programs for persons sentenced under the statute;
- (e) Develop administrative regulations including those for business and industry service participation and mechanisms for service funding through all appropriate federal, state, local, and private resources;
- (f) Require and monitor compliance with the program's administrative regulations and policies; and
- (g) Develop and implement performance measures and benchmarks.

➔Section 36. KRS 164.007 is amended to read as follows:

As used in *Sections 32 to 35 of this Act* [~~KRS 151B.400 to 151B.410~~], unless the context indicates otherwise:

- (1) "Adult education" means, for programs funded under the Federal Workforce Investment Act of 1998, services or instruction below the postsecondary level for individuals:
 - (a) Who have attained the age of sixteen (16) years of age;
 - (b) Who are not enrolled or required to be enrolled in secondary school under state law; and
 - (c) Who:
 - 1. Lack sufficient mastery of basic educational skills to enable the individuals to function effectively in society;
 - 2. Are unable to speak, read, or write the English language; or
 - 3. Do not have a secondary school diploma or its recognized equivalent, and have not achieved an equivalent level of education;
- (2) "Family literacy services" means services that are of sufficient intensity in terms of hours, and of sufficient duration, to assist a family to make sustainable increases in its literacy level, and integrate the activities described in KRS 158.360; and
- (3) "Literacy" means an individual's ability to read, write, and speak in English and compute and solve problems at levels of proficiency necessary to function on the job and in society to achieve one's goals and develop one's knowledge and potential.

➔Section 37. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

- 1. The Governor.
- 2. Lieutenant Governor.
- 3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.

4. Department of Law.
 - (a) Attorney General.
 5. Department of the Treasury.
 - (a) Treasurer.
 6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
 7. Auditor of Public Accounts.
- II. Program cabinets headed by appointed officers:
1. Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Office of Drug Control Policy.
 - (g) Office of Legal Services.
 - (h) Office of the Kentucky State Medical Examiner.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Office of Legislative and Intergovernmental Services.
 - (l) Office of Management and Administrative Services.
 - (m) Office of Investigations.
 - (n) Department for Public Advocacy.
 2. Education and Workforce Development Cabinet:
 - (a) Office of the Secretary.
 1. Governor's Scholars Program.
 - (b) Office of Legal and Legislative Services.
 1. Client Assistance Program.
 - (c) Office of Communication.
 - (d) Office of Budget and Administration.
 1. Division of Human Resources.
 2. Division of Administrative Services.
 3. Division of Technology Services.
 - (e) Office of Educational Programs.
 - (f) Board of Directors for the Center for School Safety.
 - (g) Council on Postsecondary Education.
 1. Foundation for Adult Education.
 - (h) Department of Education.

1. Kentucky Board of Education.
2. ***Kentucky Technical Education Personnel Board.***
- (i) Department for Libraries and Archives.
- (j) Department of Workforce Investment.
 1. Office for the Blind.
 2. Office of Vocational Rehabilitation.
 3. ~~Office of Career and Technical Education.~~
 4. Office of Employment and Training.
- (k) Foundation for Workforce Development.
- (l) Kentucky Office for the Blind State Rehabilitation Council.
- (m) ~~Kentucky Technical Education Personnel Board.~~
- ~~(n)~~ Kentucky Workforce Investment Board.
- ~~(n)~~~~(o)~~ Statewide Council for Vocational Rehabilitation.
- ~~(o)~~~~(p)~~ Statewide Independent Living Council.
- ~~(p)~~~~(q)~~ Unemployment Insurance Commission.
- ~~(q)~~~~(r)~~ Education Professional Standards Board.
 1. Division of Educator Preparation.
 2. Division of Certification.
 3. Division of Professional Learning and Assessment.
 4. Division of Legal Services.
- ~~(r)~~~~(s)~~ Kentucky Commission on the Deaf and Hard of Hearing.
- ~~(s)~~~~(t)~~ Kentucky Educational Television.
- ~~(t)~~~~(u)~~ Kentucky Environmental Education Council.
3. Energy and Environment Cabinet:
 - (a) Office of the Secretary.
 1. Office of Legislative and Intergovernmental Affairs.
 2. Office of General Counsel.
 - a. Environmental Protection Legal Division.
 3. Office of Administrative Hearings.
 4. Mine Safety Review Commission.
 5. Kentucky State Nature Preserves Commission.
 6. Kentucky Environmental Quality Commission.
 7. Kentucky Public Service Commission.
 - (b) Department for Environmental Protection.
 1. Office of the Commissioner.
 2. Division for Air Quality.
 3. Division of Water.
 4. Division of Environmental Program Support.
 5. Division of Waste Management.

6. Division of Enforcement.
7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
 1. Office of the Commissioner.
 2. Division of Technical and Administrative Support.
 3. Division of Mine Permits.
 4. Division of Mine Reclamation and Enforcement.
 5. Division of Abandoned Mine Lands.
 6. Division of Oil and Gas.
 7. Office of Mine Safety and Licensing.
 8. Division of Forestry.
 9. Division of Conservation.
- (d) Department for Energy Development and Independence.
 1. Division of Efficiency and Conservation.
 2. Division of Renewable Energy.
 3. Division of Biofuels.
 4. Division of Energy Generation Transmission and Distribution.
 5. Division of Carbon Management.
 6. Division of Fossil Energy Development.
4. Public Protection Cabinet.
 - (a) Office of the Secretary.
 1. Office of Communications and Public Outreach.
 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
 - (b) Crime Victims Compensation Board.
 - (c) Board of Claims.
 - (d) Kentucky Board of Tax Appeals.
 - (e) Kentucky Boxing and Wrestling Authority.
 - (f) Kentucky Horse Racing Commission.
 1. Division of Licensing.
 2. Division of Incentives and Development.
 3. Division of Veterinary Services.
 4. Division of Security and Enforcement.
 - (g) Department of Alcoholic Beverage Control.
 1. Division of Distilled Spirits.

2. Division of Malt Beverages.
3. Division of Enforcement.
- (h) Department of Charitable Gaming.
 1. Division of Licensing and Compliance.
 2. Division of Enforcement.
- (i) Department of Financial Institutions.
 1. Division of Depository Institutions.
 2. Division of Non-Depository Institutions.
 3. Division of Securities.
- (j) Department of Housing, Buildings and Construction.
 1. Division of Fire Prevention.
 2. Division of Plumbing.
 3. Division of Heating, Ventilation, and Air Conditioning.
 4. Division of Building Code Enforcement.
- (k) Department of Insurance.
 1. Property and Casualty Division.
 2. Health and Life Division.
 3. Division of Financial Standards and Examination.
 4. Division of Agent Licensing.
 5. Division of Insurance Fraud Investigation.
 6. Consumer Protection Division.
 7. Division of Kentucky Access.
- (l) Office of Occupations and Professions.
5. Labor Cabinet.
 - (a) Office of the Secretary.
 1. Division of Management Services.
 2. Office of General Counsel.
 - (b) Office of General Administration and Program Support for Shared Services.
 1. Division of Human Resource Management.
 2. Division of Fiscal Management.
 3. Division of Budgets.
 4. Division of Information Services.
 - (c) Office of Inspector General for Shared Services.
 - (d) Department of Workplace Standards.
 1. Division of Employment Standards, Apprenticeship, and Mediation.
 2. Division of Occupational Safety and Health Compliance.
 3. Division of Occupational Safety and Health Education and Training.
 4. Division of Workers' Compensation Funds.
 - (e) Department of Workers' Claims.

ACTS OF THE GENERAL ASSEMBLY

1. Office of General Counsel for Workers' Claims.
 2. Office of Administrative Law Judges.
 3. Division of Claims Processing.
 4. Division of Security and Compliance.
 5. Division of Information and Research.
 6. Division of Ombudsman and Workers' Compensation Specialist Services.
 7. Workers' Compensation Board.
 8. Workers' Compensation Advisory Council.
 9. Workers' Compensation Nominating Commission.
 - (f) Workers' Compensation Funding Commission.
 - (g) Kentucky Labor-Management Advisory Council.
 - (h) Occupational Safety and Health Standards Board.
 - (i) Prevailing Wage Review Board.
 - (j) Apprenticeship and Training Council.
 - (k) State Labor Relations Board.
 - (l) Employers' Mutual Insurance Authority.
 - (m) Kentucky Occupational Safety and Health Review Commission.
6. Transportation Cabinet:
- (a) Department of Highways.
 1. Office of Project Development.
 2. Office of Project Delivery and Preservation.
 3. Office of Highway Safety.
 4. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Aviation.
 - (d) Department of Rural and Municipal Aid.
 1. Office of Local Programs.
 2. Office of Rural and Secondary Roads.
 - (e) Office of the Secretary.
 1. Office of Public Affairs.
 2. Office for Civil Rights and Small Business Development.
 3. Office of Budget and Fiscal Management.
 4. Office of Inspector General.
 - (f) Office of Support Services.
 - (g) Office of Transportation Delivery.
 - (h) Office of Audits.
 - (i) Office of Human Resource Management.
 - (j) Office of Information Technology.
 - (k) Office of Legal Services.

7. Cabinet for Economic Development:
 - (a) Office of Administration and Support.
 - (b) Department for New Business Development.
 - (c) Department of Financial Incentives.
 - (d) Department for Existing Business Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
 - (g) Office of Research and Information Technology.
 - (h) Department of Commercialization and Innovation.
 - (i) Office of Legal Services.
 - (j) Commission on Small Business Advocacy.
8. Cabinet for Health and Family Services:
 - (a) Office of the Secretary.
 - (b) Office of Health Policy.
 - (c) Office of Legal Services.
 - (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.
 - (g) Office of Policy and Budget.
 - (h) Office of Human Resource Management.
 - (i) Office of Administrative and Technology Services.
 - (j) Department for Public Health.
 - (k) Department for Medicaid Services.
 - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
 - (m) Department for Aging and Independent Living.
 - (n) Department for Community Based Services.
 - (o) Department for Income Support.
 - (p) Department for Family Resource Centers and Volunteer Services.
 - (q) Kentucky Commission on Community Volunteerism and Service.
 - (r) Kentucky Commission for Children with Special Health Care Needs.
 - (s) Governor's Office of Electronic Health Information.
9. Finance and Administration Cabinet:
 - (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Office of Policy and Audit.
 - (f) Department for Facilities and Support Services.
 - (g) Department of Revenue.

- (h) Commonwealth Office of Technology.
 - (i) State Property and Buildings Commission.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - (k) Kentucky Employees Retirement Systems.
 - (l) Commonwealth Credit Union.
 - (m) State Investment Commission.
 - (n) Kentucky Housing Corporation.
 - (o) Kentucky Local Correctional Facilities Construction Authority.
 - (p) Kentucky Turnpike Authority.
 - (q) Historic Properties Advisory Commission.
 - (r) Kentucky Tobacco Settlement Trust Corporation.
 - (s) Kentucky Higher Education Assistance Authority.
 - (t) Kentucky River Authority.
 - (u) Kentucky Teachers' Retirement System Board of Trustees.
 - (v) Executive Branch Ethics Commission.
10. Tourism, Arts and Heritage Cabinet:
- (a) Kentucky Department of Travel and Tourism.
 - (1) Division of Tourism Services.
 - (2) Division of Marketing and Administration.
 - (3) Division of Communications and Promotions.
 - (b) Kentucky Department of Parks.
 - (1) Division of Information Technology.
 - (2) Division of Human Resources.
 - (3) Division of Financial Operations.
 - (4) Division of Facilities Management.
 - (5) Division of Facilities Maintenance.
 - (6) Division of Customer Services.
 - (7) Division of Recreation.
 - (8) Division of Golf Courses.
 - (9) Division of Food Services.
 - (10) Division of Rangers.
 - (11) Division of Resort Parks.
 - (12) Division of Recreational Parks and Historic Sites.
 - (c) Department of Fish and Wildlife Resources.
 - (1) Division of Law Enforcement.
 - (2) Division of Administrative Services.
 - (3) Division of Engineering.
 - (4) Division of Fisheries.
 - (5) Division of Information and Education.

- (6) Division of Wildlife.
- (7) Division of Public Affairs.
- (d) Kentucky Horse Park.
 - (1) Division of Support Services.
 - (2) Division of Buildings and Grounds.
 - (3) Division of Operational Services.
- (e) Kentucky State Fair Board.
 - (1) Office of Administrative and Information Technology Services.
 - (2) Office of Human Resources and Access Control.
 - (3) Division of Expositions.
 - (4) Division of Kentucky Exposition Center Operations.
 - (5) Division of Kentucky International Convention Center.
 - (6) Division of Public Relations and Media.
 - (7) Division of Venue Services.
 - (8) Division of Personnel Management and Staff Development.
 - (9) Division of Sales.
 - (10) Division of Security and Traffic Control.
 - (11) Division of Information Technology.
 - (12) Division of the Louisville Arena.
 - (13) Division of Fiscal and Contract Management.
 - (14) Division of Access Control.
- (f) Office of the Secretary.
 - (1) Office of Finance.
 - (2) Office of Research and Administration.
 - (3) Office of Governmental Relations and Tourism Development.
 - (4) Office of the Sports Authority.
 - (5) Kentucky Sports Authority.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.
- (k) Office of Capital Plaza Operations.
- (l) Office of Arts and Cultural Heritage.
- (m) Kentucky African-American Heritage Commission.
- (n) Kentucky Foundation for the Arts.
- (o) Kentucky Humanities Council.
- (p) Kentucky Heritage Council.
- (q) Kentucky Arts Council.
- (r) Kentucky Historical Society.

- (1) Division of Museums.
 - (2) Division of Oral History and Educational Outreach.
 - (3) Division of Research and Publications.
 - (4) Division of Administration.
 - (s) Kentucky Center for the Arts.
 - (1) Division of Governor's School for the Arts.
 - (t) Kentucky Artisans Center at Berea.
 - (u) Northern Kentucky Convention Center.
 - (v) Eastern Kentucky Exposition Center.
11. Personnel Cabinet:
- (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Governmental Services Center.
 - (h) Department of Employee Insurance.
 - (i) Office of Diversity and Equality.
 - (j) Center of Strategic Innovation.
- III. Other departments headed by appointed officers:
- 1. Department of Military Affairs.
 - 2. Department for Local Government.
 - 3. Kentucky Commission on Human Rights.
 - 4. Kentucky Commission on Women.
 - 5. Department of Veterans' Affairs.
 - 6. Kentucky Commission on Military Affairs.
 - 7. Office of Minority Empowerment.
 - 8. Governor's Council on Wellness and Physical Activity.
- ➔Section 38. KRS 151B.020 is amended to read as follows:
- (1) The Education and Workforce Development Cabinet is hereby created, which shall constitute a cabinet of the state government within the meaning of KRS Chapter 12. The cabinet shall consist of a secretary and those administrative bodies and employees as provided by law.
 - (2) The cabinet, subject to the provisions of KRS Chapter 12, shall be composed of the major organizational units listed below, units listed in KRS 12.020, and other departments, divisions, and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet:
 - (a) The Department of Workforce Investment, which is hereby created and established within the Education and Workforce Development Cabinet. The department shall be directed and managed by a commissioner who shall be appointed by the Governor under the provisions of KRS 12.040, and who shall report to the secretary of the Education and Workforce Development Cabinet. The department shall be composed of the following offices:
 - 1. ~~The Office of Career and Technical Education, which is created by KRS 151B.025;~~

- ~~2.}~~ The Office of Vocational Rehabilitation, which is created by KRS 151B.185;
- ~~2.}~~~~3.}~~ The Office for the Blind established by KRS 163.470; and
- ~~3.}~~~~4.}~~ The Office of Employment and Training, which is created by KRS 151B.280.~~}~~
- ~~(b)}~~ ~~The Kentucky Technical Education Personnel Board established in KRS 151B.097; and~~
- ~~(e)}~~ The Unemployment Insurance Commission established by KRS 341.110.
- (3) The executive officer of the cabinet shall be the secretary of the Education and Workforce Development Cabinet. The secretary shall be appointed by the Governor pursuant to KRS 12.255 and shall serve at the pleasure of the Governor. The secretary shall have general supervision and direction over all activities and functions of the cabinet and its employees and shall be responsible for carrying out the programs and policies of the cabinet. The secretary shall be the chief executive officer of the cabinet and shall have authority to enter into contracts, subject to the approval of the secretary of the Finance and Administration Cabinet, when the contracts are deemed necessary to implement and carry out the programs of the cabinet. The secretary shall have the authority to require coordination and nonduplication of services provided under the Federal Workforce Investment Act of 1998, 20 U.S.C. secs. 9201 et seq. The secretary shall have the authority to mandate fiscal responsibility dispute resolution procedures among state organizational units for services provided under the Federal Workforce Investment Act of 1998, 20 U.S.C. secs. 9201 et seq.
- (4) The secretary of the Education and Workforce Development Cabinet and the secretary's designated representatives, in the discharge of the duties of the secretary, may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of books, papers, correspondence, memoranda, and other records considered necessary and relevant as evidence at hearings held in connection with the administration of the cabinet.
- (5) The secretary of the Education and Workforce Development Cabinet may delegate any duties of the secretary's office to employees of the cabinet as he or she deems necessary and appropriate, unless otherwise prohibited by statute.
- (6) The secretary of the Education and Workforce Development Cabinet shall promulgate, administer, and enforce administrative regulations that are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds, and that are necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs except for programs and federal funds within the authority of the Council on Postsecondary Education, the Department of Education, the Kentucky Board of Education, and the Education Professional Standards Board.

➔Section 39. KRS 157.069 is amended to read as follows:

- (1) As used in this section:
- (a) "Secondary area technology center" or "secondary area center" means a school facility dedicated to the primary purpose of offering five (5) or more technical preparation programs that lead to skill development focused on specific occupational areas. An area center may be called a "magnet technology center" or "career center" or may be assigned another working title by the parent agency. An area center may be either state or locally operated; and
- (b) "Vocational department" means a portion of a school facility that has five (5) or more technical preparation programs that lead to skill development focused on specific occupational areas.
- (2) The Kentucky Department of Education shall distribute all general funds designated for locally operated secondary area centers and vocational departments, which have been receiving state supplemental funds prior to June 21, 2001, by a weighted formula, specified in an administrative regulation promulgated by the Kentucky Board of Education. The formula shall take into account the differences in cost of operating specific programs. The commissioner of *education shall determine*~~the Kentucky Department of Education and the executive director of the Office of Career and Technical Education shall formally agree upon~~ programs to be assigned to categories based on the descriptions found in paragraphs (a) to (c) of this subsection. Programs in Categories III and II shall be eligible for funding.
- (a) Category III--High-cost technical programs: Programs in which students develop highly technical skills in specific occupational areas and that require high-cost equipment, materials, and facilities. This category may include selected industrial technology Level III programs as defined by the *Department of Education*~~Office of Career and Technical Education~~ and programs in other occupational areas as deemed appropriate~~by both agencies~~;

- (b) Category II--Technical skill programs: Programs in which students develop technical skills focused in occupational areas and that require technical equipment but high-cost equipment, facilities, or materials are not necessary to operate the programs. This category may include selected industrial technology Level III programs as defined by the *Department of Education*~~[Office of Career and Technical Education]~~ and programs in other occupational areas as deemed appropriate~~[by both agencies]~~; and
- (c) Category I--Orientation and career exploration programs: Programs that provide orientation and exploration of broad-based industries by giving students knowledge and experience regarding careers within these industries and develop some exploratory or hands-on skills used in the industry.

Notwithstanding paragraphs (a) and (b) of subsection (1) of this section, the Department of Education shall approve the combining of eligible secondary vocational programs into a single vocational department for purposes of funding for a school district that has been receiving state supplemental funds and has distributed its vocational programs, previously located in area centers, among magnet career academies.

- (3) For calculation purposes and after categorizing the programs as described in subsection (2) of this section, a weight shall be applied as a percentage of the base guarantee per pupil in average daily attendance as defined by KRS 157.320 under the Support Education Excellence in Kentucky Program, which shall be applied to full-time equivalent students in Categories II and III. Category I programs shall receive no weight. The full-time equivalent students shall be calculated on the basis of the total program enrollment divided by the length of the class period divided by six (6).

➔Section 40. KRS 157.395 is amended to read as follows:

- (1) Notwithstanding any other statute to the contrary, a public school teacher, or a secondary teacher employed in a Kentucky Tech school or *career and technical education* program operated by the *Department of Education*~~[and Workforce Development Cabinet]~~, who has attained certification from the National Board for Professional Teaching Standards as of July 14, 2000, or thereafter shall receive an annual national board certification salary supplement of two thousand dollars (\$2,000) for the life of the certificate. The supplement shall be added to:
 - (a) The teacher's base salary on the local board's single salary schedule and shall be considered in the calculation for contributions to the Kentucky Teachers' Retirement System; or
 - (b) The state-employed teacher's base salary and shall be considered in the calculation for contributions to the Kentucky Teachers' Retirement System.

If a nationally certified teacher becomes no longer employed as a classroom teacher or a teacher mentor in the field of his or her national certification, the supplement shall cease.

- (2) A local board of education or the *Department of Education*~~[and Workforce Development Cabinet]~~ shall request reimbursement for these purposes from the fund to support education excellence described in KRS 157.330.

➔Section 41. KRS 158.808 is amended to read as follows:

- (1) Subject to the availability of funds, the~~[Kentucky]~~ Department of Education~~[and the Department for Workforce Investment]~~ shall establish an energy technology career track program. The purpose of the program is to provide grants to school districts to develop and implement an energy technology engineering career track across middle and high schools within the district. Program components may include but not be limited to career exploration and counseling, strategies to increase the rigor of instruction in pertinent core content areas, strategies to link core content to an energy technology career focus, professional development for teachers, and cooperative learning opportunities with industry and postsecondary institutions.
- (2) The Kentucky Board of Education shall promulgate administrative regulations for the administration of the energy technology career track program. The~~[Kentucky]~~ Department of Education shall administer the program, approve grant recipients, and distribute the funds to local school districts.

➔Section 42. KRS 158.814 is amended to read as follows:

- (1) In order to ensure that high-quality, relevant secondary career and technical programs are available to students in all school districts that enable them to gain the academic and technical skills to meet high school graduation requirements and for successful transition to postsecondary education, work, or the military and to support present-day and future needs of Kentucky employers, the~~[Kentucky]~~ Department of Education~~[and the Office of Career and Technical Education]~~ shall~~[jointly]~~:

- (a) Review and revise as needed the equipment and facilities standards for each career and technical education program identified and described in the career and technical education supplement to the Kentucky program of studies and published by the ~~Kentucky~~ Department of Education; and
- (b) Determine the statewide unmet needs for career and technical education capital projects, including renovations and expansions of existing facilities and the construction of new technology centers, through a needs assessment process. This process shall be tied to specific criteria in determining if the current programs or career pathways offered in locally and state-operated facilities are appropriate for the students in the school districts served as well as for determining if new programs are needed. The statewide assessment of capital needs for career and technical education shall be incorporated into the local school district facility plan as required by KRS 157.420. The Kentucky Board of Education shall incorporate criteria within the administrative regulations relating to school facility plan requirements to prioritize need for career and technical education programming, regardless of whether the programs are locally or state-operated.

- (2) ***The Career and Technical Education Advisory Committee established in Section 2 of this Act*** ~~Representatives from local school districts, the Kentucky Community and Technical College System, the Office of Career and Technical Education in the Education and Workforce Development Cabinet, the Division of Career and Technical Education in the Kentucky Department of Education, business and industry, colleges, universities, and other appropriate agencies~~ shall be consulted in carrying out the requirements of this section.

➔Section 43. KRS 158.816 is amended to read as follows:

- (1) The ~~Kentucky~~ Department of Education ~~and the Office of Career and Technical Education in the Education and Workforce Development Cabinet~~, with involvement of representatives from the local school districts and teacher preparation institutions, shall ~~jointly~~ complete an annual statewide analysis and report of academic achievement of technical education students who have completed or are enrolled in a sequence of a technical program of at least three (3) high school credits.
- (2)
 - (a) The analysis shall include the previous year's results from the state assessment program described in KRS 158.6453. The data shall be disaggregated for all high school students by career cluster areas of agriculture, business and marketing, human services, health services, transportation, construction, communication, and manufacturing and by special populations. Where available, disaggregated data from other national assessments shall also be used.
 - (b) In addition to assessment scores required under paragraph (a) of this subsection, the analysis shall include:
 - 1. The number of students who took state or national assessments of skill standards and qualified for skills certificates;
 - 2. The number of senior concentrators as defined in the Carl D. Perkins Vocational and Technical Education Act, Pub. L. No. 105-332, who have attained a high school diploma or equivalent;
 - 3. The number of students who made successful transitions to work, military, or postsecondary education. A successful transition to postsecondary education means a student enters directly into advanced training, a certificate program, or a degree program without having to take remedial academic courses;
 - 4. The number of students employed in nontraditional careers; and
 - 5. Other factors deemed appropriate by the state education agencies or required under federal law.
- (3) (a) The ~~Kentucky~~ Department of Education ~~, with assistance from the Office of Career and Technical Education,~~ shall coordinate the development of a statewide technical assistance plan to aid providers of programs in identifying areas for improvement for those schools that do not meet their school performance goal and for those schools where technical students as a group do not score equal to or better than the school average in each of the academic areas. The plan shall address methodologies for further analysis at each school including but not limited to:
 - 1. The academic course-taking patterns of the technical students;
 - 2. The rigor and intensity of the technical programs and expectations for student performance in reading, math, science, and writing and other academic skills as well as in technical skill development;

3. The level of communication and collaboration between teachers in technical programs and academic programs, planning, and opportunity for analyzing student achievement, particularly between faculty in the comprehensive high schools with the faculty in state-operated or locally operated secondary area centers and vocational departments;
 4. The faculties' understanding of Kentucky's program of studies, academic expectations, and core content for assessment;
 5. The knowledge and understanding of academic teachers and technical teachers in integrating mutually supportive curricula content;
 6. The level of curricula alignment and articulation in grades eight (8) to sixteen (16);
 7. The availability of extra help for students in meeting higher standards;
 8. The availability and adequacy of school career and guidance counseling;
 9. The availability and adequacy of work-based learning;
 10. The availability and adequacy of distance learning and educational technology;
 11. The adequacy of involvement of business and industry in curricula, work-based learning, and program development; and
 12. The adequacy of teachers' preparation to prepare them for teaching both academic and technical skills to all students that are necessary for successful transition to postsecondary education, work, or the military.
- (b) 1. The department and the office, in cooperation with the Education Professional Standards Board, teacher preparation programs, postsecondary education institutions, and other appropriate partners, shall ensure that academic core content is embedded or integrated within the performance requirements for teacher education students.
2. Beginning with the 2013-2014 school year and thereafter, the Education Professional Standards Board shall, as a condition of program approval, require career and technical educator preparation programs to include instructional techniques for teacher education students to embed reading, mathematics, and science knowledge and skills into all career and technical education instruction at the secondary level.
- (c) The department ~~and the office~~, in cooperation with the Kentucky Community and Technical College System, shall encourage postsecondary education and business and industry to provide professional development and training opportunities to engage technical faculty in continuous improvement activities to enhance their instructional skills.
- (d) The department ~~and the office~~ shall continue efforts with business and industry to develop occupation skill standards and assessments. All efforts shall be made with the involvement of business, industry, and labor. Skill standards and assessments, where available, shall be used as the focus of the curricula.
- (4) The department ~~and the office~~ shall consult with the Education Professional Standards Board in carrying out the requirements of this section as they relate to teacher preparation.

➔Section 44. KRS 158.818 is amended to read as follows:

- (1) If funds are appropriated for the purposes of funding evidence-based instructional models or if internal state or federal funds are available, the Kentucky Department of Education, in collaboration with ~~the Office of Career and Technical Education in the Education and Workforce Development Cabinet,~~ the Kentucky Community and Technical College System, the Education Professional Standards Board, and other appropriate educational entities, shall recommend evidence-based models for addressing the needs of at-risk students.
- (2) The evidence-based models shall include a variety of programs and curricula proven to be effective for at-risk students, and shall focus on:
 - (a) Identification of students at risk for inadequate academic preparation for the next grade level or at risk for dropping out of school;
 - (b) Reduction in the number of students retained in grade nine (9) and reduction of high school failure rates;

- (c) Improvement of student performance through grade-level standards in reading and mathematics with an emphasis on grade nine (9);
 - (d) Assistance to students and their parents or legal guardians in identifying students' career and educational goals, developing individual learning plans, and the appropriate programs of study to achieve these goals; and
 - (e) Assistance to adult students in obtaining a high school diploma or a recognized postsecondary education credential that has value in the workplace.
- (3) The evidence-based models shall include the following components designed to facilitate more students having a successful start in high school and successfully completing grade nine (9) requirements:
- (a) The use of flexible scheduling as appropriate to increase students' time in the study of core language arts and mathematics;
 - (b) The assignment of the most effective teachers as leaders for instructional teams in grade nine (9) to improve instructional planning, delivery of instruction, and the use of reteaching strategies;
 - (c) The assignment of mentors to teach students study skills and habits necessary to become independent learners and, when possible, the use of career guidance coaches to advise students; and
 - (d) Career courses, including career exploration, in grade nine (9) to incorporate project-based instruction that requires the application of grade nine (9) level reading, mathematics, and science skills and that uses a wide variety of technology.
- (4) (a) If state or federal funds are available, all career and technical education teachers who teach high school students shall receive training in how to embed reading, mathematics, and science knowledge and skills in specific career and technical education courses.
- (b) Training required under paragraph (a) of this subsection may be provided by local school districts or postsecondary education institutions, including community and technical colleges, and outside providers that have a record of working effectively with schools in redesigning the ninth grade.
- (5) Career and technical education teachers shall provide evidence through the courses they teach that the students' academic achievement is increased as defined by administrative regulations promulgated by the Kentucky Board of Education and developed in collaboration with ~~the Education and Workforce Development Cabinet~~ and the Kentucky Community and Technical College System.
- (6) The evidence-based models shall be incorporated into career and technical education programs, career academies, and career pathway programs of study developed under KRS 157.072.

➔Section 45. KRS 161.133 is amended to read as follows:

- (1) There is hereby established a "Teachers' National Certification Incentive Trust Fund" in the State Treasury for the purposes of:
- (a) Funding stipends for teachers to prepare for certification by the National Board for Professional Teaching Standards;
 - (b) Reimbursing a portion of the certification fee to each teacher who is awarded national board certification;
 - (c) Reimbursing local boards of education or the *Department of* Education ~~and Workforce Development Cabinet~~ for persons who serve as substitute teachers for national board certification candidates; and
 - (d) Funding stipends for national board certified teachers who serve as mentors to other teachers within the school district or the Kentucky Tech system.
- (2) Appropriations by the General Assembly in each biennial budget for the purpose of supporting national board certification shall be credited to the fund and invested until needed. All money credited to the fund, including interest earned on money in the fund, shall be retained in the fund for reinvestment and used for the purposes of this section. Funds appropriated to the fund shall not lapse at the end of a fiscal year or a biennium.
- (3) The Education Professional Standards Board shall promulgate administrative regulations that establish the procedures for the administration of the funds as described in this section and the requirements for participating teachers, local boards of education, and the *Department of* Education ~~and Workforce Development Cabinet~~. The board shall allocate only those funds to teachers, school districts, or the

~~department~~~~[cabinet]~~ for the purposes in this section for which other sources of funds are not being received. The board may limit the number of participants accepted in any given enrollment or application period due to the lack of available funds.

- (4) Money in the fund shall be distributed to local boards of education, the *Department of Education* ~~and Workforce Development Cabinet~~, and teachers by the Education Professional Standards Board in compliance with the administrative regulations promulgated by the board.

➔Section 46. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

- (1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);
 2. For taxable years beginning after December 31, 2006, the limited liability entity tax credit permitted by KRS 141.0401;
 - (b) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;
 - (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - (d) The health insurance credit permitted by KRS 141.062;
 - (e) The tax paid to other states credit permitted by KRS 141.070;
 - (f) The credit for hiring the unemployed permitted by KRS 141.065;
 - (g) The recycling or composting equipment credit permitted by KRS 141.390;
 - (h) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - (i) The coal incentive credit permitted under KRS 141.0405;
 - (j) The research facilities credit permitted under KRS 141.395;
 - (k) The employer GED incentive credit permitted under *Section 33 of this Act*~~[KRS 151B.127]~~;
 - (l) The voluntary environmental remediation credit permitted by KRS 141.418;
 - (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - (n) The environmental stewardship credit permitted by KRS 154.48-025;
 - (o) The clean coal incentive credit permitted by KRS 141.428;
 - (p) The ethanol credit permitted by KRS 141.4242;
 - (q) The cellulosic ethanol credit permitted by KRS 141.4244;
 - (r) The energy efficiency credits permitted by KRS 141.436;
 - (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
 - (t) The Endow Kentucky tax credit permitted by KRS 141.438; and
 - (u) The New Markets Development Program tax credit permitted by KRS 141.434.
- (2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual credits permitted by KRS 141.020(3);
 - (b) The credit permitted by KRS 141.066;
 - (c) The tuition credit permitted by KRS 141.069;
 - (d) The household and dependent care credit permitted by KRS 141.067; and

- (e) The new home credit permitted by KRS 141.388.
- (3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual withholding tax credit permitted by KRS 141.350;
 - (b) The individual estimated tax payment credit permitted by KRS 141.305;
 - (c) For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(c);
 - (d) The certified rehabilitation credit permitted by KRS 141.382(1)(b); and
 - (e) The film industry tax credit allowed by KRS 141.383.
- (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.
- (5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:
- (a) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;
 - (b) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - (c) The health insurance credit permitted by KRS 141.062;
 - (d) The unemployment credit permitted by KRS 141.065;
 - (e) The recycling or composting equipment credit permitted by KRS 141.390;
 - (f) The coal conversion credit permitted by KRS 141.041;
 - (g) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;
 - (h) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - (i) The coal incentive credit permitted under KRS 141.0405;
 - (j) The research facilities credit permitted under KRS 141.395;
 - (k) The employer GED incentive credit permitted under KRS 151B.127;
 - (l) The voluntary environmental remediation credit permitted by KRS 141.418;
 - (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - (n) The environmental stewardship credit permitted by KRS 154.48-025;
 - (o) The clean coal incentive credit permitted by KRS 141.428;
 - (p) The ethanol credit permitted by KRS 141.4242;
 - (q) The cellulosic ethanol credit permitted by KRS 141.4244;
 - (r) The energy efficiency credits permitted by KRS 141.436;
 - (s) The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437;
 - (t) The railroad maintenance and improvement credit permitted by KRS 141.385;
 - (u) The railroad expansion credit permitted by KRS 141.386;
 - (v) The Endow Kentucky tax credit permitted by KRS 141.438; and
 - (w) The New Markets Development Program tax credit permitted by KRS 141.434.
- (6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable credits shall be taken in the following order:

- (a) The corporation estimated tax payment credit permitted by KRS 141.044;
- (b) The certified rehabilitation credit permitted by KRS 141.382(1)(b); and
- (c) The film industry tax credit allowed in KRS 141.383.

➔Section 47. KRS 157.060 is amended to read as follows:

The officials of each educational institution and each school district supported in whole or in part from taxation shall make a report to the Kentucky Board of Education or the Kentucky Technical Education Personnel Board established in *Section 23 of this Act* ~~[KRS 151B.097]~~ at the close of each scholastic year, showing in detail all funds received from the state and from all other sources during the year, and a detailed statement of all expenditures for the year.

➔Section 48. The following KRS sections are repealed:

151B.250 School-to-Careers System -- Office of Career and Technical Education.

151B.255 Representative group for Office of School-to-Work.

➔Section 49. All Office of Career and Technical Education's central office employees and the career and technical education administrative support employees with the Education and Workforce Development Cabinet's Office of Budget and Administration and Office of Communication shall be merged with the Department of Education to provide uniform oversight of and guidance to career and technical programs within the Commonwealth of Kentucky. All classified, unclassified, and certified and equivalent employees shall remain in their present personnel system and those who are members of a state retirement system shall remain in their respective retirement system to the extent permitted by law.

➔Section 50. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

➔Section 51. (1) It is the intent of the General Assembly that the repeal and reenactment of statutes in this Act shall not serve to void amendments made to those sections by other bills enacted during the 2013 Regular Session of the General Assembly, regardless of whether this Act is enacted before or after those other Acts.

(2) Notwithstanding KRS 446.100 or 446.260 or any other statute to the contrary, the reviser of statutes shall give force and effect to other 2013 Acts that amend one or more sections contained in this Act and shall codify those amendments in accordance with KRS 446.250 and other applicable rules of codification.

➔Section 52. The General Assembly confirms Executive Order 2012-737, dated August 28, 2012, to the extent it is not otherwise confirmed or superseded by this Act.

Signed by Governor March 22, 2013.

CHAPTER 60

(HB 234)

AN ACT relating to the State Investment Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 42.500 is amended to read as follows:

- (1) There shall be a State Investment Commission composed of the Governor who shall be chairman; the State Treasurer who shall be vice chairman and serve as chairman in the absence of the Governor; the secretary of the Finance and Administration Cabinet; and two (2) persons appointed by the Governor.
- (2) The individuals appointed by the Governor shall be selected as follows: one (1) to be selected from a list of five (5) submitted to the Governor by the Kentucky Bankers Association, and one (1) to be selected from a list of five (5) submitted to the Governor by the Independent Community Bankers Association.

- (3) The State Investment Commission shall meet at least quarterly to review investment performance and conduct other business. This provision shall not prohibit the commission from meeting more frequently as the need arises.
- (4) The Governor, State Treasurer, and secretary of the Finance and Administration Cabinet shall each have the authority to designate, by an instrument in writing over his or her signature and filed with the secretary of the commission as a public record of the commission, an alternate with full authority to:
- (a) Attend in the member's absence, for any reason, any properly convened meeting of the commission; and
 - (b) Participate in the consideration of, and vote upon, business and transactions of the commission.
- Each alternate shall be a person on the staff of the appointing member or in the employ of the appointing member's state agency or department.
- (5) Any designation of an alternate may, at the appointing member's direction:
- (a) Be limited upon the face of the appointing instrument to be effective for only a specific meeting or specified business;
 - (b) Be shown on the face of the appointing instrument to be a continuing designation, for a period of no more than four (4) years, whenever the appointing member is unable to attend; or
 - (c) Be revoked at any time by the appointing member in an instrument in writing, over his or her signature, filed with the secretary of the commission as a public record of the commission.
- (6) Any person transacting business with, or materially affected by, the business of the commission may accept and rely upon a joint certificate of the secretary of the commission and any member of the commission concerning the designation of any alternate, the time and scope of the designation, and, if it is of a continuing nature, whether and when the designation has been revoked. The joint certificate shall be made and delivered to the person requesting it within a reasonable time after it has been requested in writing, with acceptable identification of the business or transaction to which it refers and the requesting person's interest in the business or transaction.
- (7) Any three (3) persons who are members of the commission or alternates authorized under subsections (4) and (5) of this section shall constitute a quorum and may, by majority vote, transact any business of the commission. Any three (3) members of the commission may call a meeting.
- (8) The provisions of KRS 61.070 shall not apply to members of the commission.
- (9) The commission shall have authority and may, if in its opinion the cash in the State Treasury is in excess of the amount required to meet current expenditures, invest any and all of the excess cash in:
- (a) Obligations and contracts for future delivery of obligations backed by the full faith and credit of the United States or a United States government agency, including but not limited to:
 - 1. United States Treasury;
 - 2. Export-Import Bank of the United States;
 - 3. Farmers Home Administration;
 - 4. Government National Mortgage Corporation; and
 - 5. Merchant Marine bonds;
 - (b) Obligations of any corporation of the United States government *or government-sponsored enterprise*, including but not limited to:
 - 1. Federal Home Loan Mortgage Corporation;
 - 2. Federal Farm Credit Banks;
 - a. Bank for Cooperatives;
 - b. Federal Intermediate Credit Banks; and
 - c. Federal Land Banks;
 - 3. Federal Home Loan Banks;
 - 4. Federal National Mortgage Association; and

5. Tennessee Valley Authority obligations;
- (c) Collateralized or uncollateralized certificates of deposit, issued by banks rated in one (1) of the three (3) highest categories by a nationally recognized *statistical* rating *organization*~~{agency}~~ or other interest-bearing accounts in depository institutions chartered by this state or by the United States, except for shares in mutual savings banks;
- (d) Bankers acceptances for banks rated in ~~{one (1) of }~~the ~~{three (3) }~~highest *short-term category*~~{categories}~~ by a nationally recognized *statistical* rating *organization*~~{agency}~~;
- (e) Commercial paper rated in the highest *short-term* category by a nationally recognized *statistical* rating *organization*~~{agency}~~;
- (f) Securities issued by a state or local government, or any instrumentality or agency thereof, in the United States, and rated in one (1) of the three (3) highest *long-term* categories by a nationally recognized *statistical* rating *organization*~~{agency}~~;
- (g) United States denominated corporate, Yankee, and Eurodollar securities, excluding corporate stocks, issued by foreign and domestic issuers, including sovereign and supranational governments, rated in one (1) of the three (3) highest *long-term* categories by a nationally recognized *statistical* rating *organization*~~{agency}~~;
- (h) Asset-backed securities rated in the highest category by a nationally recognized *statistical* rating *organization*~~{agency}~~; and
- (i) Shares of mutual funds, ~~{not to exceed ten percent (10%) of the total funds available for investment as described in subsection (9) of this section, }~~each of which shall have the following characteristics:
1. The mutual fund shall be an open-end diversified investment company registered under Federal Investment Company Act of 1940, as amended;
 2. The management company of the investment company shall have been in operation for at least five (5) years;
 3. ***The mutual fund shall be rated in the highest category by a nationally recognized statistical rating organization;***
 4. ~~All~~~~{At least ninety percent (90%)}~~ of the securities in the mutual fund shall be eligible investments pursuant to this section; and
- (j) State and local delinquent property tax claims which upon purchase shall become certificates of delinquency secured by interests in real property not to exceed twenty-five million dollars (\$25,000,000) in the aggregate. For any certificates of delinquency that have been exonerated pursuant to KRS 132.220(5), the Department of Revenue shall offset the loss suffered by the Finance and Administration Cabinet against subsequent local distributions to the affected taxing districts as shown on the certificate of delinquency.
- (10) The State Investment Commission shall promulgate administrative regulations for the investment and reinvestment of state funds in shares of mutual funds, and the regulations shall specify:
- (a) The long and short term goals of any investment;
 - (b) The specification of moneys to be invested;
 - (c) The amount of funds which may be invested per instrument;
 - (d) The qualifications of instruments; and
 - (e) The acceptable maturity of investments.
- (11) Any investment in obligations and securities pursuant to subsection (9) of this section shall satisfy this section if these obligations are subject to repurchase agreements, provided that delivery of these obligations is taken either directly or through an authorized custodian.
- (12) (a) Income earned from investments made pursuant to this section shall accrue to the credit of the investment income account of the general fund, except that interest from investments of excess cash in the road fund shall be credited to the surplus account of the road fund and interest from investments of excess cash in the game and fish fund shall be credited to the game and fish fund, interest earned from investments of imprest cash funds and funds in the trust and revolving fund for each state public

university shall be credited to the appropriate institutional account, and interest earned from the investment of funds accumulated solely by means of contributions and gifts shall not be diverted to any purpose other than that stipulated by the donor, when the donor shall have designated the use to which the interest shall be placed.

- (b) Except as otherwise provided by law, or by the obligations and covenants contained in resolutions and trust indentures adopted or entered into for state bond issues, interest earned from the investment of moneys appropriated to the capital construction accounts, trust and agency accounts, and trust and agency revolving accounts shall accrue to the capital construction investment income account.
 - (c) If there is a revenue shortfall, as defined in KRS 48.010, of five percent (5%) or less, the secretary of the Finance and Administration Cabinet, upon the recommendation of the state budget director, may direct the transfer of excess unappropriated capital construction investment income to the general fund investment income account. The amount of the transfer shall not exceed the amount of the shortfall in general fund revenues.
 - (d) If the capital construction investment income is less than that amount appropriated by the General Assembly, the secretary of the Finance and Administration Cabinet may, upon recommendation of the state budget director, direct the transfer of excess unappropriated general fund investment income to the capital construction investment income account. The transfer of general fund investment income revenues to the capital construction investment income account shall be made only when the actual general fund revenues are in excess of the enacted estimates under KRS 48.120 and shall be limited to the amount of the excess general fund revenues. The amount of the transfer shall not exceed the amount of the shortfall in the capital construction fund revenues.
- (13) The authority granted by this section to the State Investment Commission shall not extend to any funds that are specifically provided by law to be invested by some other officer or agency of the state government.
 - (14) The authority granted by this section to the State Investment Commission shall only be exercised pursuant to the administrative regulations mandated by KRS 42.525.
 - (15) Each member of the State Investment Commission, with the exception of the Governor, shall post bond for his acts or omissions as a member thereof identical in amount and kind to that posted by the State Treasurer.

Signed by Governor March 21, 2013.

CHAPTER 61

(HB 273)

AN ACT relating to the operation of mini-trucks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "mini-truck" means a lightweight Japanese kei class utility vehicle.*
- (2) *Except as provided in subsection (5) of this section, a person shall not operate a mini-truck upon any public highway or roadway or upon the right-of-way of any public highway or roadway.*
- (3) *A person shall not operate a mini-truck on private property without the consent of the landowner, tenant, or individual responsible for the property.*
- (4) *A person shall not operate a mini-truck on public property unless the governmental agency responsible for the property has approved the use of mini-trucks.*
- (5) (a) *A person may operate a mini-truck on any two (2) lane public highway in order to cross the highway. In crossing the highway under this paragraph, the operator shall cross the highway at as close to a ninety (90) degree angle as is practical and safe, and shall not travel on the highway for more than two-tenths (2/10) of a mile.*

- (b) *A person may operate a mini-truck on any two (2) lane public highway if the operator is engaged in farm or agricultural-related activities, construction, road maintenance, or snow removal.*
- (c) *The Transportation Cabinet may designate, and a city or county government may designate, those public highways, segments of public highways, and adjoining rights-of-way of public highways under its jurisdiction where mini-trucks that are prohibited may be operated.*
- (d) *A person operating a mini-truck on a public highway under this subsection shall possess a valid operator's license.*
- (e) *A person operating a mini-truck on a public highway under this subsection shall comply with all applicable traffic regulations.*
- (f) *A person shall not operate a mini-truck under this subsection unless the mini-truck has at least two (2) headlights and two (2) taillights, which shall be illuminated at all times the mini-truck is in operation.*
- (g) *A person operating a mini-truck under this subsection shall restrict the operation to daylight hours, except when engaged in snow removal or emergency road maintenance.*

Signed by Governor March 21, 2013.

CHAPTER 62

(HB 281)

AN ACT relating to land conservation and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 146.560 is amended to read as follows:

- (1) There is hereby established a Kentucky Heritage Land Conservation Fund Board, referred to hereafter as "the board", which shall administer the Kentucky Heritage Land Conservation fund established in KRS 146.570 and shall review and approve all grants payable from the fund. The board shall consist of the following members:
 - (a) The commissioner of the Department of Parks or a designee;
 - (b) The director of the Kentucky Nature Preserves Commission or a designee;
 - (c) The commissioner of the Department for Natural Resources or a designee;
 - (d) The commissioner of the Department of Fish and Wildlife Resources or a designee;
 - (e) The chairperson of the Kentucky Environmental Education Council or a designee;
 - (f) One (1) person appointed by the Governor, from two (2) persons nominated by the Kentucky Chapter of the Nature Conservancy;
 - (g) One (1) person appointed by the Governor, from two (2) persons nominated by the League of Kentucky Sportsmen;
 - (h) Two (2) persons appointed by the Governor, from four (4) persons recognized for their expertise in natural resource issues and nominated by the Kentucky Academy of Sciences;
 - (i) One (1) person appointed by the Governor, from three (3) persons nominated, one (1) by the Kentucky Farm Bureau, one (1) by the Commissioner of the Department of Agriculture, and one (1) by the Kentucky Association of Conservation Districts;
 - (j) One (1) person appointed by the Governor, from three (3) persons nominated, one (1) by the Kentucky Audubon Council, one (1) by the Cumberland Chapter of the Sierra Club, and one (1) by the Kentucky Conservation Committee; and
 - (k) One (1) person appointed by the Governor with at least five (5) years of experience in natural resources land acquisition.

The board shall receive staff support from the Energy and Environment Cabinet and the Department of Fish and Wildlife Resources. Of the seven (7) members identified in paragraphs (f) to (k) of this subsection and first appointed, two (2) shall continue in office for terms of one (1) year, two (2) for terms of two (2) years, and three (3) for terms of three (3) years, as the Governor designates. At the expiration of the original terms and for all succeeding terms, the Governor shall appoint a successor to the board for a term of three (3) years in each case. Members may be reappointed. A vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term. The Governor shall appoint a chairperson for the board.

- (2) The board shall promulgate in accordance with the provisions of KRS Chapter 13A administrative regulations as are deemed necessary for application for funds from the agencies *and private, nonprofit land trust organizations* identified in KRS 146.570, review and approval of proposed projects, and review and approval of grants. Grants shall be made in amounts, for purposes, and to the agencies *and private, nonprofit land trust organizations* identified in KRS 146.570 as meet the priorities for acquisition which are:
- (a) Natural areas that possess unique features such as habitat for rare and endangered species;
 - (b) Areas important to migratory birds;
 - (c) Areas that perform important natural functions that are subject to alteration or loss; or
 - (d) Areas to be preserved in their natural state for public use, outdoor recreation and education.

The board shall promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A on acquisition based on these priorities and property costs seeking to maximize the greatest public benefit by taking advantage of those priority areas available below fair market value and where public or private funds are available on a matching basis. *Additionally, private, nonprofit land trust organizations, in order to be eligible to receive grants, shall match dollar-for-dollar, any funds approved by the board.* The board shall expend the whole or any part of the principal and interest as needed. KRS 146.550 to 146.570 shall not allow the use of condemnation powers and shall only allow acquisition of land from willing sellers.

➔Section 2. KRS 146.570 is amended to read as follows:

- (1) There is hereby established in the State Treasury a fund entitled "Kentucky Heritage Land Conservation fund." The fund shall primarily receive state appropriations, gifts, grants, federal funds, and tax receipts. The fund shall be disbursed by the State Treasurer upon the warrant of the secretary of the Finance and Administration Cabinet. Moneys in the fund not expended at the end of a fiscal year shall be carried forward to the next fiscal year, and the fund shall not lapse. Moneys in the fund shall be invested in accordance with administrative regulations developed by the State Investment Commission in accordance with KRS 42.525. Interest earnings shall accrue to the fund.
- (2) The fund shall be attached for administrative, budgeting, and capital planning and reporting purposes to the Energy and Environment Cabinet. Land acquisitions shall be authorized by the General Assembly and reported to the Capital Projects and Bond Oversight Committee in accordance with KRS 45.750 to 45.800. Allocation of moneys as approved by the board for management of the lands shall be appropriated to each separate agency as part of its operating budget.
- (3) Moneys in the fund shall be used exclusively for the purposes of acquisition and management of lands as defined in KRS 146.560. Each recipient of moneys shall develop and implement a resource management plan for each tract acquired, except a resource management plan for properties adjacent to a state park shall be developed and managed by the Department of Parks, and shall allocate at least ten percent (10%) of moneys received for management of lands acquired. Lands acquired shall be maintained in perpetuity for the purposes set out in KRS 146.560.
- (4) Moneys in the fund shall be allocated as follows:
 - (a) The Department of Parks shall receive ten percent (10%);
 - (b) The Department of Fish and Wildlife Resources shall receive ten percent (10%);
 - (c) The Energy and Environment Cabinet, Division of Forestry, shall receive ten percent (10%);
 - (d) Ten percent (10%) shall be allocated for wild rivers corridors established by the Kentucky Wild Rivers Act, KRS 146.200 to 146.360, and any administrative regulations promulgated pursuant thereto;
 - (e) The Nature Preserves Commission shall receive ten percent (10%); and

- (f) The board shall receive the remaining fifty percent (50%), for allocation to *private, nonprofit land trust organizations*, state agencies, local governments, and state colleges and universities. *Any funds expended under this paragraph to private, nonprofit land trust organizations shall be matched dollar-for-dollar as required in subsection (2) of Section 1 of this Act.*

Signed by Governor March 21, 2013.

CHAPTER 63

(HB 315)

AN ACT relating to alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 243.150 is amended to read as follows:

- (1) A brewer's license shall authorize the licensee to engage in the business of a brewer at the premises specifically designated in the license, and to transport for himself only any malt beverage which he is authorized by his license to manufacture or sell, but he shall transport any malt beverages in accordance with the requirements provided by KRS 243.120 for distillers.
- (2) A brewer may sell any malt beverage produced under his license~~{,}~~ to:
- (a) A licensed wholesaler from the licensed premises;~~{ provided, however, a brewer may sell malt beverages to}~~
- (b) Any of its employees for home consumption; and~~{ also to}~~
- (c) Charitable or fraternal organizations holding group meetings, picnics, or outings.
- (3) *A brewer may serve on the premises of its brewery complimentary samples of malt beverages produced at the brewery in an amount not to exceed sixteen (16) ounces per patron per day, if the brewery is located in wet territory.*

Signed by Governor March 21, 2013.

CHAPTER 64

(HB 340)

AN ACT relating to the Department of Kentucky State Police.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 16.196 is amended to read as follows:

There is created within the Department of Kentucky State Police the *positions*~~{position}~~ of Trooper R Class *and commercial vehicle enforcement officer R class* that shall be utilized by the commissioner to retain retired officers commissioned under this chapter on a contractual basis to supplement the ranks of the Kentucky State Police *and commercial vehicle enforcement officers*.

➔Section 2. KRS 16.197 is amended to read as follows:

An individual employed as a Trooper R Class *or a commercial vehicle enforcement officer R class*~~{under KRS 16.196 to 16.199}~~ shall:

- (1) Be a retired officer who prior to retirement was commissioned as an officer under this chapter;

- (2) Be a retired member of the State Police Retirement System established by KRS 16.505 to 16.652 *or the Kentucky Employees Retirement System established by KRS 61.510 to 61.705*, who retired with at least twenty (20) years of service credit;
- (3) Upon appointment to Trooper R Class *or commercial vehicle enforcement officer R class*, have been separated from the service of the Department of Kentucky State Police for a period no less than one (1) month nor greater than sixty (60) months following the individual's effective retirement date from the State Police Retirement System *or the Kentucky Employees Retirement System*;
- (4) Have retired willingly with no administrative charges against the officer pending under KRS 16.140 *or 16.192*; and
- (5) Have retired with no pre-existing agreement between the employee and the department prior to the employee's retirement for the employee to return to work with the department.

➔Section 3. KRS 16.198 is amended to read as follows:

The appointment, salary, benefits, and number of individuals employed as a Trooper R Class *and commercial vehicle enforcement officer R class* shall be as follows:

- (1) The commissioner may appoint Trooper R Class employees *and commercial vehicle enforcement officer R class*. Trooper R Class employees *and commercial vehicle enforcement officer R class* shall serve on a contractual basis for a term of one (1) year, and the contract may be renewed annually, by agreement of the parties, for no more than four (4) additional one (1) year terms.
- (2) The compensation for Trooper R Class employees *and commercial vehicle enforcement officer R class* shall be established by administrative regulation promulgated pursuant to KRS Chapter 13A.
- (3)
 - (a) All appointments of individuals employed as a Trooper R Class *and commercial vehicle enforcement officer R class* shall be based upon agency need as determined by the commissioner.
 - (b) Work stations for individuals employed as a Trooper R Class *and commercial vehicle enforcement officer R class* shall be determined by agency need with consideration given to the applicant's stated preference.
 - (c) Merit of individuals employed as a Trooper R Class *and commercial vehicle enforcement officer R class* shall be determined by the applicant's work performance history.
 - (d) Fitness of individuals employed as a Trooper R Class *and commercial vehicle enforcement officer R class* shall be determined by the applicant's ability to adhere to the agency standards set by the commissioner under this chapter.
- (4) The number of individuals employed as a Trooper R Class *and commercial vehicle enforcement officer R class* by the department shall not:
 - (a) Exceed one hundred (100); or
 - (b) Be counted in the total employee cap for the department.
- (5) All individuals employed as a Trooper R Class *and commercial vehicle enforcement officer R class* shall be assigned the job duties of trooper *or commercial vehicle enforcement officer* and shall not be placed in any supervisory positions or special work assignments.
- (6) Notwithstanding any provision of KRS 16.505 to 16.652, KRS 18A.005 to 18A.228, and KRS 61.510 to 61.705 to the contrary:
 - (a) Individuals employed as a Trooper R Class *and commercial vehicle enforcement officer R class* shall continue to receive all retirement and health insurance benefits provided by the systems administered by Kentucky Retirement Systems to which they were entitled upon retiring from the department as a commissioned officer under this chapter;
 - (b) Individuals employed as a Trooper R Class *and commercial vehicle enforcement officer R class* shall not be eligible to receive health insurance coverage or benefits through the department and shall not be eligible to participate in the State Police Retirement System *or the Kentucky Employees Retirement System*; and
 - (c) The department shall not pay health insurance contributions to the state health insurance plan for individuals employed as a Trooper R Class *and commercial vehicle enforcement officer R class*.

- (7) Individuals employed as a Trooper R Class **and commercial vehicle enforcement officer R class** shall be employed on a contractual basis and shall be provided due process pursuant to KRS 16.140 **or 16.192** for any disciplinary action imposed by the commissioner. A decision by the commissioner to not renew a contract shall not be considered a disciplinary action for purposes of this section.
- (8) The provisions of this section shall not eliminate or reduce any requirements under KRS 61.637 for the department to pay employer contributions to the retirement systems or to reimburse the retirement systems for the cost of retiree health, on any individual employed as a Trooper R class **or commercial vehicle enforcement officer R class**.

➔Section 4. KRS 16.199 is amended to read as follows:

- (1) All individuals employed as a Trooper R Class **or commercial vehicle enforcement officer R class** shall adhere to the agency standards of conduct and policy.
- (2) Any person may proffer charges against an individual employed as a Trooper R Class **or commercial vehicle enforcement officer R class** by submitting a written complaint, signed by the complainant, with the Office of Internal Affairs within the department.

➔Section 5. KRS 16.187 is amended to read as follows:

- (1) The following positions shall be created within the Department of Kentucky State Police:
- (a) Commercial vehicle enforcement officers;
 - (b) **Commercial vehicle enforcement officers R Class;**
 - (c) Arson investigator officers;
 - ~~(d)(e)~~ Hazardous devices investigator officers; and
 - ~~(e)(d)~~ Facilities security officers.
- (2) These positions shall be appointed pursuant to KRS 16.188 and shall be utilized by the commissioner to enforce the laws of the Commonwealth and to comply with federal and state mandates.

➔Section 6. KRS 16.188 is amended to read as follows:

- (1) The following officers shall be appointed by the commissioner:
- (a) Commercial vehicle enforcement officers;
 - (b) **Commercial vehicle enforcement officers R Class;**
 - (c) Arson investigator officers; and
 - ~~(d)(e)~~ Hazardous devices investigator officers.
- (2) Facilities security officers shall be appointed by the secretary as special law enforcement officers under KRS 61.902.

➔Section 7. KRS 16.189 is amended to read as follows:

The powers and duties of officers in the positions established by KRS 16.187 shall be as follows:

- (1) Commercial vehicle enforcement officers **and commercial vehicle enforcement officers R class** shall enforce:
- (a) Commercial vehicle licensure, operator, traffic, and criminal violations;
 - (b) Motor vehicle operator, traffic, and criminal law violations on a highway; and
 - (c) All the laws and administrative regulations of the Commonwealth at the direction of the commissioner;
- (2) Arson investigator officers shall enforce:
- (a) All criminal laws pertaining to arson; and
 - (b) All the laws and administrative regulations of the Commonwealth at the direction of the commissioner;
- (3) Hazardous devices investigator officers shall enforce:
- (a) All criminal laws pertaining to hazardous devices; and

- (b) All the laws and administrative regulations of the Commonwealth at the direction of the commissioner; and
- (4) Facilities security officers shall have the jurisdiction and duties established pursuant to KRS 61.900 to 61.930.

➔Section 8. KRS 16.010 is amended to read as follows:

As used in KRS 16.010 to 16.199, unless the context requires otherwise:

- (1) "Cabinet" means the Justice and Public Safety Cabinet;
- (2) "Secretary" means the secretary of justice and public safety;
- (3) "Commissioner" means the commissioner of the Department of Kentucky State Police;
- (4) "Officer" means any member of the Department of Kentucky State Police, other than an individual employed as a Trooper R Class *or CVE R Class*, who possesses the powers of a peace officer;
- (5) "Civilian" means such experts, statisticians, clerks, and other assistants who do not possess the powers of a peace officer;
- (6) "Board" means the Department of Kentucky State Police Personnel Board;
- (7) "Department" means the Department of Kentucky State Police;
- (8) "Continuous service" for participation in and eligibility for the promotional process for each rank of officer commissioned under this chapter means:
 - (a) For sergeant, service as a commissioned Kentucky State Police officer that has not been interrupted by actual separation from the department, whether in the form of resignation, retirement, or termination;
 - (b) For lieutenant, service in grade as a sergeant that has not been interrupted by actual separation from the department, whether in the form of resignation, retirement, termination, or by demotion in accordance with KRS 16.140;
 - (c) For captain, service in grade as lieutenant that has not been interrupted by actual separation from the department, whether in the form of resignation, retirement, termination, or by demotion in accordance with KRS 16.140; and
- (9) "Trooper R Class" means any retired Kentucky State Police officer commissioned under this chapter who has become reemployed with the department on a contractual basis pursuant to KRS 16.196 to 16.199.
- (10) ***"CVE R Class" means any retired Kentucky State Police commercial vehicle enforcement officer commissioned under KRS 16.187 who has become reemployed with the department on a contractual basis pursuant to KRS 16.196 to 16.199.***

➔Section 9. KRS 16.040 is amended to read as follows:

- (1) The department shall consist of the commissioner and the number of officers, individuals employed as a Trooper R Class, *CVE R Class*, and civilians, and shall be organized in the manner as the commissioner from time to time determines.
- (2) All persons appointed as officers shall at the time of their appointment:
 - (a) Be not less than twenty-one (21) nor more than thirty-one (31) years of age;
 - (b) Be of good moral character, and in good health;
 - (c) Be citizens of the United States and residents of the Commonwealth; and
 - (d) Possess a minimum of sixty (60) hours of credit, or an associate degree, from an accredited college or university, or be a high school graduate with at least two (2) years' experience in the military or in law enforcement.
- (3) The commissioner shall prescribe minimum physical requirements for appointment as an officer of the department and for individuals employed as a Trooper R Class *or CVE R Class*, and shall conduct such tests and require such physical examinations as deemed necessary to determine the fitness and qualification of each applicant. All other qualifications being equal, preference shall be given to veterans of the Armed Forces of the United States in time of war, who were honorably discharged.

- (4) The commissioner shall direct an investigation to be conducted in order to determine an applicant's suitability for employment as an officer. The contents of the investigation shall be subject to the Open Records Act, KRS 61.870 to 61.884 and KRS 61.991, except that the identity of any witness or informant involving information relative to this investigation shall remain confidential. The identity of any witness or informant shall be subject to the subpoena power of a court of competent jurisdiction.

➔Section 10. KRS 16.060 is amended to read as follows:

It shall be the duty of the commissioner, each officer of the department, and each individual employed as a Trooper R Class *or CVE R Class* to detect and prevent crime, apprehend criminals, maintain law and order throughout the state, to collect, classify and maintain information useful for the detection of crime and the identification, apprehension and conviction of criminals and to enforce the criminal, as well as the motor vehicle and traffic laws of the Commonwealth. To this end the commissioner, each officer of the department, and each individual employed as a Trooper R Class *or CVE R Class* is individually vested with the powers of a peace officer and shall have in all parts of the state the same powers with respect to criminal matters and enforcement of the laws relating thereto as sheriffs, constables and police officers in their respective jurisdictions, and shall possess all the immunities and matters of defense now available or hereafter made available to sheriffs, constables and police officers in any suit brought against them in consequence of acts done in the course of their employment. Any warrant of arrest may be executed by the commissioner, any officer of the department, and each individual employed as a Trooper R Class *or CVE R Class*.

➔Section 11. KRS 16.070 is amended to read as follows:

- (1) The commissioner is the head and chief executive officer of the department. He or she shall provide for himself or herself, each officer of the department, and each individual employed as a Trooper R Class *or CVE R Class*, under the provisions of KRS 45A.045 to 45A.650, such uniforms, equipment, and facilities, including motor vehicles, necessary to the performance of their respective duties, but all uniforms, equipment, and facilities, including motor vehicles, shall remain the property of the Commonwealth. The commissioner may sell through the Finance and Administration Cabinet, under the provisions of KRS 45A.045 to 45A.650, such uniforms, equipment, and facilities, including motor vehicles, as become unfit for use, and all moneys received therefrom shall be paid into the State Treasury and credited to a revolving fund to be used by the department.
- (2) The commissioner shall keep an inventory and shall charge against each officer and each individual employed as a Trooper R Class *or CVE R Class* the value of all property of the department issued to him or her, and if it is determined by the commissioner that any loss or destruction of property was due to the carelessness or neglect of an officer or an individual employed as a Trooper R Class, then the value of the property shall be deducted from the pay of the officer or the individual employed as a Trooper R Class *or CVE R Class*.
- (3) By agreement with the commissioner of highways of the Commonwealth, the commissioner of the Department of Kentucky State Police may provide for the leasing of motor vehicles and accessories thereto, radio facilities and equipment, office equipment, and other property or facilities, upon such terms and conditions and for such compensation as said agreement may provide. The commissioner of highways and the commissioner of the Department of Kentucky State Police may further provide, by agreement, for the service and repair at any state garage of motor vehicles or accessories thereto which are owned, operated, or rented by the department, upon such terms and conditions and for such compensation as said agreement may provide. Subject to KRS Chapter 42, the department is authorized, by lease or purchase, to acquire, maintain, and operate motor vehicles, and the officers of said department, including the commissioner and individuals employed as a Trooper R Class *or CVE R Class*, are authorized and empowered to operate such motor vehicles in the course of their duties, and in carrying out the purposes, responsibilities, and functions provided for in KRS 16.010 to 16.170.
- (4) The commissioner shall establish local headquarters so as to best distribute the officers, individuals employed as a Trooper R Class *or CVE R Class*, and employees of the department throughout the various sections of the Commonwealth where they will be most efficient in carrying out the provisions of KRS 16.010 to 16.199.

➔Section 12. KRS 16.080 is amended to read as follows:

- (1) The commissioner shall promulgate administrative regulations for the enlistment, training, discipline, and conduct of officers of the department and individuals employed as a Trooper R Class *or CVE R Class*, and the commissioner may promulgate administrative regulations for the governing and operation of the department as appear to him or her reasonably necessary to carry out the provisions of KRS 16.010 to 16.170.
- (2) The commissioner may require any officer, individual employed as a Trooper R Class *or CVE R Class*, or civilian who receives or disburses public funds in the course of his or her duties to file a bond, conditioned that he or she will honestly, correctly, and according to law, receive, disburse, and account for all public moneys

coming into his or her hands. The commissioner, each officer, and each individual employed as a Trooper R Class *or CVE R Class*, shall execute a bond to the Commonwealth of Kentucky in the sum of not less than two thousand dollars (\$2,000), conditioned upon the faithful discharge of his or her duties. The premium on the bonds shall be paid by the department. The commissioner, each officer of the department, and each individual employed as a Trooper R Class *or CVE R Class* shall, before entering upon the discharge of their official duties, take the constitutional oath of office.

- (3) Subject to the provisions of KRS 56.440 to 56.550, the commissioner, with the approval of the Governor and the secretary of the Finance and Administration Cabinet, may acquire real estate or interests therein, by purchase, lease, or otherwise, necessary for the purposes of the department, and, with like approval, provide for the acquisition or construction of necessary buildings and other permanent structures and facilities. Title to any real estate acquired shall be taken in the name of the Commonwealth.

➔Section 13. KRS 16.100 is amended to read as follows:

- (1) The commissioner may approve vouchers in payment of expenses, including travel, lodging and meals incurred by officers, individuals employed as a Trooper R Class *or CVE R Class*, and civilians of the department in the discharge of their duties, and such vouchers shall be audited and paid out of the department's appropriation in the manner required by law.
- (2) The commissioner may, with the approval of the secretary of the Finance and Administration Cabinet, approve payment of a per diem allowance for officers of the department and individuals employed as a Trooper R Class *or CVE R Class*, payable in a fixed sum for each day the officer or individual employed as a Trooper R Class is on duty. The per diem allowance herein provided shall not be payable when the officer or the individual employed as a Trooper R Class *or CVE R Class* is on travel status as provided by subsection (1) of this section.

➔Section 14. KRS 16.110 is amended to read as follows:

No fee for the performance of an act in line of duty, and no reward offered for the apprehension and conviction of any person or for the recovery of any property may be accepted by any officer, individual employed as a Trooper R Class *or CVE R Class*, or employee of the department, but any fee or reward to which such officer, individual employed as a Trooper R Class *or CVE R Class*, or civilian would be entitled, apart from the foregoing provision, shall be paid into the State Treasury and credited to a revolving fund, to be used by the department.

➔Section 15. KRS 16.170 is amended to read as follows:

No officer of the department or individual employed as a Trooper R Class *or CVE R Class* shall, directly or indirectly, give, solicit or receive, or be in any manner concerned in giving, soliciting or receiving, any assessment, subscription or contribution for any political party or political purpose whatever. No officer or individual employed as a Trooper R Class *or CVE R Class* shall, orally or by letter, solicit or be in any manner concerned in soliciting any assessment, subscription or contribution for any political party or purpose whatever from any person holding a position in the department. No officer of the department or individual employed as a Trooper R Class *or CVE R Class* shall take any part in political management or affairs or in political campaigns further than to cast his vote and to express privately his opinion. Violation of the provisions hereof shall be grounds for removal.

Signed by Governor March 21, 2013.

CHAPTER 65

(HB 343)

AN ACT relating to business identification numbers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 14 IS CREATED TO READ AS FOLLOWS:

- (1) *To help facilitate data sharing between state agencies and as part of the ongoing establishment of a one-stop electronic business portal, the Secretary of State, the Finance and Administration Cabinet, the Cabinet for Economic Development, the Education and Workforce Development Cabinet, and the Commonwealth*

Office of Technology shall jointly establish a unique Commonwealth business identification number which can be used in filings and services provided by the business portal.

- (2) *By December 31, 2013, the agencies identified in subsection (1) of this section shall:*
- (a) *Recommend a timeline for implementing the new business identification numbering system for new business filings; and*
 - (b) *Establish a five (5) year timeline for all state agencies to utilize the Commonwealth business identification number to facilitate data sharing and continued growth of services provided by the business portal.*

Signed by Governor March 21, 2013.

CHAPTER 66

(HB 427)

AN ACT relating to judges.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 118.105 is amended to read as follows:

- (1) Except as provided in subsections (3) and (4) of this section and in KRS 118.115, every political party shall nominate all of its candidates for elective offices to be voted for at any regular election at a primary ~~election~~ held as provided in this chapter, and the governing authority of any political party shall have no power to nominate any candidate for any elective office or to provide any method of nominating candidates for any elective office other than by **a** primary ~~elections~~ as provided in this chapter.
- (2) Any political organization not constituting a political party as defined in KRS 118.015 may make its nominations as provided in KRS 118.325.
- (3) If a vacancy occurs in the nomination of an unopposed candidate or in a nomination made by the primary before the certification of candidates for the regular election made under KRS 118.215, because of death, disqualification to hold the office sought, or severe disabling condition which arose after the nomination, the governing authority of the party may provide for filling the vacancy, but only following certification to the governing authority, by the Secretary of State, that a vacancy exists for a reason specified in this subsection. When such a nomination has been made, the certificate of nomination shall be signed by the **chair**~~chairman~~ and secretary of the governing authority of the party making it, and shall be filed in the same manner as certificates of nomination at a primary ~~election~~.
- (4) If a vacancy occurs in the nomination of an unopposed candidate or in a nomination made by the primary before the certification of candidates for the regular election, and if that party's nominee was the only political party candidate for the office sought, the governing authority of each party may nominate a candidate for the regular election, provided that no person has sought that party's nomination by filing a notification and declaration.
- (5) If a vacancy occurs in the nomination of a candidate under the conditions of subsection (3) or (4) of this section prior to September 15 preceding the day of the regular election, certificates of nomination for replacement candidates shall be filed in the same manner as provided in subsections (3) and (4) not later than 4 p.m. ten (10) days after the vacancy occurs, excluding weekends and legal holidays. If a vacancy occurs in the nomination of a candidate under the conditions of subsection (3) or (4) of this section on or after September 15 preceding the date of the regular election, certificates of nomination for replacement candidates shall be filed in the same manner as provided in subsections (3) and (4) not later than 4 p.m. five (5) days after the vacancy occurs, excluding weekends and legal holidays.
- (6) If a vacancy in candidacy described in subsection (5) of this section occurs later than the second Thursday preceding the date of the regular election, no certificates of nomination shall be filed and any candidate whose name does not appear on the ballot may seek election by write-in voting pursuant to KRS 117.265.

- (7) This section does not apply to candidates for members of boards of education, or presidential electors, nor to candidates participating in nonpartisan elections. ***However, regardless of the number of days served by a judge acting as a Senior Status Special Judge, a judge who elected to retire as a Senior Status Special Judge in accordance with KRS 21.580 shall not become a candidate for any elected office during the five (5) year term prescribed in KRS 21.580(1)(a)1.***

➔Section 2. KRS 118.115 is amended to read as follows:

- (1) Except as provided in subsection (2)(b) of KRS 83A.045 governing vacancies in candidacy, candidates for unexpired terms to be filled at a regular election shall be nominated at the primary next preceding the regular election, if the vacancy occurred not less than one hundred thirty-four (134) days before the primary. If the vacancy occurred less than one hundred thirty-four (134) days before the primary, the nomination shall be made in a manner determined by the governing authority of the political party concerned. In the preparation of ballots, candidates for full terms shall be grouped together, and candidates for unexpired terms shall be grouped together, under appropriate headings, so that the voter may easily distinguish the candidates for full terms from the candidates for unexpired terms.

- (2) ***A judge who elected to retire as a Senior Status Special Judge in accordance with KRS 21.580 shall not become a candidate or a nominee for any elected office during the five (5) year term prescribed in KRS 21.580(1)(a)1., regardless of the number of days served by the judge acting as a Senior Status Special Judge.***

➔Section 3. KRS 118.165 is amended to read as follows:

- (1) Except as provided in KRS Chapters 116 to 121, candidates for offices to be voted for by the electors of one (1) county or of a district less than one (1) county, except members of Congress and members of the General Assembly, shall file their nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year the office will appear on the ballot and not later than the last Tuesday in January preceding the day fixed by law for holding the primary ~~election~~. Candidates for offices to be voted for by the electors of more than one (1) county, and for members of Congress and members of the General Assembly, shall file their nomination papers with the Secretary of State not earlier than the first Wednesday after the first Monday in November of the year preceding the year the office will appear on the ballot and not later than the last Tuesday in January preceding the day fixed by law for holding the primary. Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. All nomination papers shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers may be filed.

- (2) The Secretary of State or the county clerk shall examine the notification and declaration form of each candidate to determine whether it is regular on its face. If there is an error, the proper officer shall notify the candidate by certified mail within twenty-four (24) hours of filing.

- (3) ***A judge who elected to retire as a Senior Status Special Judge in accordance with KRS 21.580 shall not become a candidate or a nominee for any elected office during the five (5) year term prescribed in KRS 21.580(1)(a)1., regardless of the number of days served by the judge acting as a Senior Status Special Judge.***

➔Section 4. KRS 118.305 is amended to read as follows:

- (1) Except as provided in KRS 118.345, and subject to the provisions of subsections (2), (3), and (4) of this section, the county clerk of each county shall cause to be printed for the voting machines and on the absentee ballots for the regular election the names of the following persons:

- (a) Candidates of a political party, as defined in KRS 118.015, who have received certificates of nomination at the preceding primary ~~election~~, or certificates of nomination under KRS 118.185, and whose certificates of nomination have been filed with the Secretary of State or the appropriate county clerk;
- (b) Candidates of a political party, as defined in KRS 118.015, who have been nominated for an unexpired term in a manner determined by the governing authority of the party, as provided in KRS 118.115, and whose evidences of nomination have been filed with the Secretary of State or the appropriate county clerk within the time prescribed in this chapter;
- (c) Candidates of a political party, as defined in KRS 118.015, who have been nominated by the governing authority of the party to fill a vacancy in the candidacy of a person nominated at the preceding primary

- election, as provided in KRS 118.105, and whose certificates of nomination have been filed with the Secretary of State or the appropriate county clerk, by at least the date provided by the election law generally for such filing;
- (d) Candidates who have been nominated by a political organization as provided in KRS 118.325 and whose certificates or petitions of nomination have been filed with the Secretary of State or the appropriate county clerk within the time prescribed in this chapter;
 - (e) Independent candidates who have been nominated by petition as provided in KRS 118.315, and whose petitions of nomination have been filed with the Secretary of State or the appropriate county clerk within the time prescribed in this chapter;
 - (f) Successful nominees of all nonpartisan primaries which shall have been conducted;
 - (g) Candidates who have filed a petition of candidacy as shall be required to fill a vacancy which shall appear on the ballot;
 - (h) The county clerk shall determine whether the name of any replacement candidate who has been nominated as provided in KRS 118.105(5) may be placed on the machine ballot or ballot cards and whether the voting machine may be reprogrammed to count the votes cast for that candidate or whether the ballot or ballot cards must be reprinted to accommodate votes cast for any replacement candidate and shall take the appropriate action to accommodate the replacement of any candidate. If the county clerk determines that the name of any replacement candidate cannot be accommodated on the existing ballot or ballot cards and if there is insufficient time before the election to reprint the entire ballot, the county clerk shall request approval to use supplemental paper ballots for voting for that office only in the same manner as permitted for other situations as provided in KRS 118.215(5), and, if approved, shall have an adequate number of supplemental paper ballots printed for voting for that office and only votes cast for that office by means of the supplemental paper ballots shall be tabulated and recorded by the precinct election officers and county board of elections. All actions by a county clerk, the State Board of Elections, and the Secretary of State which are necessary to provide for voting at a regular election for candidates nominated pursuant to KRS 118.105(5) shall be carried out with all possible speed. When a candidate has been replaced as provided in KRS 118.105(5) after absentee ballots have been printed and distributed for the regular election, neither the precinct election officers nor the county board of elections shall tabulate or record any absentee votes cast for the candidate who was replaced. If ballots are reprinted or supplemental paper ballots are printed, or if voting machines must be reprogrammed to count the votes cast for a replacement candidate, the costs for the printing and reprogramming shall be paid by the political party who has nominated a replacement candidate, or proportionately by each political party if each party nominates a replacement candidate;
 - (i) Candidates for President and Vice President of the United States, of those political parties and organizations who have nominated presidential electors as provided in KRS 118.325, if the certificate of nomination of the electors has been filed with the Secretary of State within the time prescribed in this chapter;
 - (j) Candidates for soil and water district supervisors who have been nominated by petition as provided in KRS 262.210; and
 - (k) Candidates for city office for which no nonpartisan primary has been conducted in a city which requires nonpartisan city elections.
- (2) Any candidate for city office who is defeated in a partisan or nonpartisan primary~~[election]~~ shall be ineligible as a candidate for the same office in the regular election.
 - (3) Candidates for members of boards of education shall have their names printed on ballot labels and absentee ballots for the regular election only after filing as provided in KRS 160.220.
 - (4) Except as provided in KRS 118.105 and 118.115,~~[the name of]~~ no *candidate's name*~~[candidate]~~ shall be printed upon the ballot labels and absentee ballots for any regular election as the nominee of any political party, as defined in KRS 118.015, or under the emblem of any political party, as so defined, except those candidates who have been duly and regularly nominated as nominees of that party at a primary~~[election]~~ held as provided in this chapter.
 - (5) No county clerk shall knowingly cause to be printed, upon the ballot labels or absentee ballots for any regular election, the name of any candidate of a political party, as defined in KRS 118.015, who has not been

nominated in the manner provided in the primary election laws or the name of any candidate who is not in compliance with the restrictions concerning party registration and candidacy provided in of KRS 118.315(1).

- (6) The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors.
- (7) When a vacancy occurs in an elective office which is required by law to be filled temporarily by appointment, the officer or body designated by law to make the appointment, or in the case of an office to be filled by appointment from a list of nominations, the officer or body designated by law to make the nominations, shall immediately notify in writing both the county clerk and Secretary of State of the vacancy.
- (8) ***A judge who elected to retire as a Senior Status Special Judge in accordance with KRS 21.580 shall not become a candidate or a nominee for any elected office during the five (5) year term prescribed in KRS 21.580(1)(a)1., regardless of the number of days served by the judge acting as a Senior Status Special Judge.***

➔Section 5. KRS 118.315 is amended to read as follows:

- (1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him or her, complying with the provisions of subsection (2) of this section. No person whose registration status is as a registered member of a political party shall be eligible to election as an independent, or political organization, or political group candidate, nor shall any person be eligible to election as an independent, or political organization, or political group candidate whose registration status was as a registered member of a political party on January 1 immediately preceding the regular election for which the person seeks to be a candidate. This restriction shall not apply to candidates to those offices specified in KRS 118.105(7), for supervisor of a soil and water conservation district, for candidates for mayor or legislative body in cities of the second to sixth class, or to candidates participating in nonpartisan elections.
- (2) The form of the petition shall be prescribed by the State Board of Elections. It shall be signed by the candidate and by registered voters from the district or jurisdiction from which the candidate seeks nomination. The petition shall include a declaration, sworn to by the candidate, that he or she possesses all the constitutional and statutory requirements of the office for which the candidate has filed. Signatures for a petition of nomination for a candidate seeking any office, excluding President of the United States in accordance with KRS 118.591(1), shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in Congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer, member of the General Assembly, or Commonwealth's attorney, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for a city officer or board of education member, two (2) petitioners; and for an officer of a division less than a county, except as herein provided, twenty (20) petitioners. It shall not be necessary that the signatures of the petition be appended to one (1) paper. Each petitioner shall include the date he or she affixes the signature, address of residence, and date of birth. Failure of a voter to include the signature affixation date, date of birth, and address of residence shall result in the signature not being counted. If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he or she shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his or her signature is affixed.
- (3) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be accepted as the candidate's name.
- (4) The Secretary of State and county clerks shall examine the petitions of all candidates who file with them to determine whether each petition is regular on its face. If there is an error, the Secretary of State or the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.
- (5) ***A judge who elected to retire as a Senior Status Special Judge in accordance with KRS 21.580 shall not become a candidate or a nominee for any elected office during the five (5) year term prescribed in KRS 21.580(1)(a)1., regardless of the number of days served by the judge acting as a Senior Status Special Judge.***

➔Section 6. KRS 118.325 is amended to read as follows:

- (1) Any political organization not constituting a political party within the meaning of KRS 118.015 but whose candidate received two percent (2%) of the vote of the state at the last preceding election for presidential electors may nominate, by a convention or primary~~[election]~~ held by the party in accordance with its constitution and bylaws, candidates for any offices to be voted for at any regular election, except the office of member of a board of education, for which nominations shall be made as provided in KRS 160.220. Any political party, as defined in KRS 118.015, and any political organization not constituting such a political party but whose candidate received two percent (2%) of the vote of the state at the last preceding election for presidential electors, may nominate, by a convention or primary~~[election]~~ held by the party or organization in accordance with its constitution and bylaws, as many electors of President and Vice President of the United States as this state is entitled to elect.
- (2) The certificate of nomination by such a convention or primary~~[election]~~ shall be in writing, shall contain the name of each person nominated, his *or her* residence and the office to which he *or she* is nominated, and shall designate a title for the party or principle that such convention or primary~~[election]~~ represents, together with any simple figure or device by which its list of candidates may be designated on the voting machines. The certificate shall be signed by the presiding officer and secretary of the convention, or by the *chair*~~[chairman]~~ and secretary of the county, city, or district committee, who shall add to their signatures their respective places of residence, and acknowledge the same before an officer duly authorized to administer oaths. A certificate of the acknowledgment shall be appended to the certificate of nomination. In the case of electors of President and Vice President of the United States the certificate of nomination shall state the names of the candidates of the party for President and Vice President.
- (3) Any person desiring to become a candidate for an office, the nomination to which is to be made by a convention pursuant to subsections (1) and (2) of this section, except for the office of elector of President and Vice President of the United States, shall file a statement with the official designated in KRS 118.165 with whom notification and declaration forms are filed for the office. The form of the statement shall be prescribed by the State Board of Elections. Such statement shall be filed as prescribed by KRS 118.365.
- (4) If the certificate of nomination of any state convention requests that the figure or device selected by such convention be used to designate the candidates of such party on the voting machines for all elections throughout the state, that figure or device shall be used until changed by request of a subsequent state convention of the same party. The device may be any appropriate symbol other than the coat of arms or seal of this state or of the United States, the national flag, or any other emblem common to the people at large.
- (5) In case of death, resignation, or removal of any such candidate subsequent to nomination and before the certification of candidates for the regular election made under KRS 118.215, the *chair*~~[chairman]~~ of the state, county, or city district committee shall fill the vacancy, unless a supplemental certificate or petition of nomination is filed. In the case of electors of President and Vice President of the United States, a vacancy may be filled by the *chair*~~[chairman]~~ of the state committee at any time before the meeting of the electors, whether the vacancy occurs before or after the election.
- (6) If any political party entitled to nominate by convention fails to do so, the names of all nominees by petition for any office who are designated in their petition as members and candidates of that party shall be printed under the device and title on the voting machines as if nominated by a convention. If two (2) or more persons who have filed certificates of nomination under this section claim to be the nominee of the same political party, the governing authority of that party shall designate to the Secretary of State and county clerk, in writing, which of the candidates is entitled to the party emblem. If there are two (2) or more contending executive committees of the same party in the county or district, the county or district executive committee that is recognized by the state governing authority of the party, by the written certificate of its *chair*~~[chairman]~~, shall be recognized by the Secretary of State and county clerk.
- (7) *A judge who elected to retire as a Senior Status Special Judge in accordance with KRS 21.580 shall not become a candidate or a nominee for any elected office during the five (5) year term prescribed in KRS 21.580(1)(a)1., regardless of the number of days served by the judge acting as a Senior Status Special Judge.*

➔Section 7. KRS 118.375 is amended to read as follows:

- (1) If a vacancy occurs in any elective office less than one hundred thirty-four (134) days before the primary or at any time after the primary, but not less than three (3) months before the regular election, independent, or political organization, or political group candidates may file their petitions at the time and place provided in

KRS 118.365, subject to the restrictions concerning party registration and candidacy provided in KRS 118.315(1).

- (2) ***A judge who elected to retire as a Senior Status Special Judge in accordance with KRS 21.580 shall not become a candidate or a nominee for any elected office during the five (5) year term prescribed in KRS 21.580(1)(a)1., regardless of the number of days served by the judge acting as a Senior Status Special Judge.***

➔Section 8. KRS 118A.100 is amended to read as follows:

- (1) Candidates for an unexpired term of a judicial office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in KRS 118A.060 if the vacancy occurs not later than the second Tuesday in January preceding the primary. If the vacancy occurs on or after that date, the election to fill the unexpired term shall be held in accordance with the procedures described in this section and Section 152 of the Constitution of Kentucky.
- (2) If in a regular election for judicial office no candidates nominated as provided in KRS 118A.060 are available due to death, incapacity, or withdrawal, and the candidates have not been replaced as provided in KRS 118A.060, the election to fill the regular term shall be conducted in the manner prescribed in subsections (3) through (11) of this section.
- (3) Each candidate shall file a petition for nomination with the Secretary of State not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the election for the unexpired term will be held and not later than the second Tuesday in August preceding the day fixed by law for holding the regular election for the unexpired term. The petition shall be sworn to by the candidate and by not less than two (2) registered voters from the district or circuit from which he or she seeks nomination, before an officer authorized to administer an oath. Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. The petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers are permitted to be filed.
- (4) The petition for nomination shall be in the form prescribed by the State Board of Elections. The petition shall include a declaration sworn to by the candidate, that he or she possesses all the constitutional and statutory requirements of the office for which the candidate has filed. Titles, ranks, or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.
- (5) The Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing.
- (6) The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the second Tuesday in August preceding the regular election.
- (7) Not later than the date set forth in KRS 118.215 and after the order of names on the ballot has been determined as required in subsection (6) of this section, the Secretary of State shall:
 - (a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for nomination filed with the Secretary of State; and
 - (b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.
- (8) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.
- (9) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the absentee ballots for the regular election the names of the candidates for offices of the Court of Justice.
- (10) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot," and in a manner so that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. The words "Vote for one" or "Vote for one in each division," shall be printed on the appropriate location. The office,

numbered division thereof if divisions exist, and the candidates therefor shall be clearly labeled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

- (11) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.
- (12) *A judge who elected to retire as a Senior Status Special Judge in accordance with KRS 21.580 shall not become a candidate or a nominee for any elected office during the five (5) year term prescribed in KRS 21.580(1)(a)1., regardless of the number of days served by the judge acting as a Senior Status Special Judge.*

➔Section 9. KRS 118A.080 is amended to read as follows:

- (1) No person who was a candidate for nomination for any office of the Court of Justice in a primary~~[election]~~ and who, before the succeeding regular election, is declared by the final judgment of any court of competent jurisdiction to have violated, in the primary~~[election]~~, any provision of KRS Chapter 121, or to be responsible for such violation by others, shall have his *or her* name placed on the ballot for any office to be voted for in the succeeding regular election. However, if such judgment is subsequently reversed prior to the time of printing of the ballots, the candidate's name shall be restored on the ballot.
- (2) *A judge who elected to retire as a Senior Status Special Judge in accordance with KRS 21.580 shall not become a candidate or a nominee for any elected office during the five (5) year term prescribed in KRS 21.580(1)(a)1., regardless of the number of days served by the judge acting as a Senior Status Special Judge.*

Signed by Governor March 21, 2013.

CHAPTER 67

(HB 445)

AN ACT relating to procurement methods for demonstration road and bridge projects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any conflicting provisions of KRS Chapters 45A, 176, and 177, the Transportation Cabinet is authorized to utilize design/build procurement methods for up to five (5) demonstration road and bridge related projects in each fiscal year. The projects shall be identified in the biennial highway construction plan and shall be limited to those with a construction phase not greater than thirty million dollars (\$30,000,000). For procurement purposes, the Transportation Cabinet shall utilize a qualifications-based bidding process within the context of the provisions of KRS Chapter 176. The projects shall be selected based on engineering factors that determine a design/build process will provide the best value for the Commonwealth. Factors to consider may include but not be limited to the following: project delivery schedule, technical complexity, constructability, and estimated project cost. The secretary of the Transportation Cabinet shall determine the nature and scope of each design/build project, and shall submit a report identifying and detailing the demonstration road and bridge related projects, including the estimated cost savings, to the Interim Joint Committee on Appropriations and Revenue by December 1 of each fiscal year.

Signed by Governor March 21, 2013.

CHAPTER 68

(SB 66)

AN ACT relating to public protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 95.440 is amended to read as follows:

- (1) The legislative body in cities of the second and third classes and urban-county governments shall require all applicants for appointments as members of the police or fire departments to be examined as to their qualifications for office, including their knowledge of the English language and the law and rules governing the duties of the position applied for.
- (2) Each member of the police or fire department in cities of the second and third classes and urban-county governments shall be able to read, write and understand the English language, and have such other qualifications as may be prescribed. No person shall be appointed a member of the police or fire department unless he is a person of sobriety and integrity and is and has been an orderly, law-abiding citizen. ~~[-In a city of the second class or urban county government no person shall be appointed a member of either of such departments if he is over fifty (50) years of age.-]~~
- (3) Members of the police and fire departments in cities of the second and third classes or urban-county governments qualified under this section shall hold their positions during good behavior, except that the legislative body may decrease the number of policemen or firefighters as it may deem proper.
- (4) If the legislative body of a city of the second or third class or urban-county government decreases the number of policemen or firefighters, the youngest members in point of service shall be the first to be released and returned to the eligible list of the department, there to advance according to the rules of the department.
- (5) The legislative body in an urban-county government may by ordinance provide that any person who has successfully completed his probationary period and subsequently ceased working for the police or fire department for reasons other than dismissal may be restored to the position, rank and pay he formerly held or to an equivalent or lower position, rank or pay than that which he formerly held if he so requests in writing to the appointing authority. Such person shall be eligible for reinstatement for a period of one (1) year following his separation from the police or fire department and shall be reinstated only with the approval of the appointing authority.

➔Section 2. KRS 211.9109 is amended to read as follows:

- (1) The cabinet shall issue a certification as a radon measurement contractor to any person who:
 - (a) Submits a complete and accurate application for certification on a form prescribed by the cabinet through promulgation of an administrative regulation;
 - (b) Pays the certification fee established by the cabinet through promulgation of an administrative regulation within the following restrictions:
 1. An initial certification fee shall not exceed two hundred fifty dollars (\$250);
 2. An annual renewal fee shall not exceed two hundred fifty dollars (\$250);
 3. A duplicate certificate fee shall not exceed twenty dollars (\$20); and
 4. A late renewal fee shall not exceed one hundred dollars (\$100);
 - (c) Provides the cabinet with documentation of successful completion of a cabinet-approved radon measurement course and exam;
 - (d) For renewal of certification, provides proof of completion of at least eight (8) hours of continuing education per year;
 - (e) Submits a quality control program plan that meets the minimum standard operating procedures requirements as established by the cabinet through promulgation of an administrative regulation; and
 - (f) Furnishes evidence of financial responsibility to the cabinet consisting of a ~~[-license and permit bond, errors and omissions coverage, and a-~~ liability insurance policy that satisfies the requirements of KRS 211.9113.
- (2) A measurement contractor shall:
 - (a) Ensure all measurements are conducted in accordance with the measurement standard operating procedures established by the cabinet through promulgation of an administrative regulation;

- (b) Maintain a quality control program plan that meets the minimum standard operating procedures requirements established by the cabinet through promulgation of an administrative regulation;
- (c) Ensure all measurement activities are conducted under the general supervision of an individual certified to conduct radon measurement;
- (d) Use or sell only cabinet-approved devices to conduct radon measurement; and
- (e) Ensure all services procured from a radon laboratory are procured from a radon laboratory certified by the cabinet.

➔Section 3. KRS 211.9111 is amended to read as follows:

- (1) The cabinet shall issue a certification as a mitigation contractor to any person who:
 - (a) Submits a complete and accurate application for certification on a form prescribed by the cabinet through promulgation of an administrative regulation;
 - (b) Pays the certification fee established by the cabinet through promulgation of an administrative regulation within the following restrictions:
 - 1. An initial certification fee shall not exceed two hundred fifty dollars (\$250);
 - 2. An annual renewal fee shall not exceed two hundred fifty dollars (\$250);
 - 3. A duplicate certificate fee shall not exceed twenty dollars (\$20); and
 - 4. A late renewal fee shall not exceed one hundred dollars (\$100);
 - (c) Provides the cabinet with documentation of successful completion of a cabinet-approved radon mitigation course and exam;
 - (d) For renewal of certification, provides proof of completion of at least eight (8) hours of continuing education credit per year;
 - (e) Submits a quality control program plan that meets the minimum standard operating procedures requirements established by the cabinet through promulgation of an administrative regulation; and
 - (f) Furnishes evidence of financial responsibility to the cabinet consisting of ~~off a license and permit bond and~~ a liability insurance policy that satisfies the requirements of KRS 211.9113.
- (2) A mitigation contractor shall:
 - (a) Ensure all mitigations are conducted in accordance with mitigation standard operating procedures established by an administrative regulation promulgated by the cabinet;
 - (b) Maintain a quality control program plan that meets the minimum standard operating procedures requirements established by the cabinet through promulgation of an administrative regulation;
 - (c) Ensure all mitigation activities are conducted under the general supervision of an individual certified to conduct radon mitigation;
 - (d) Ensure post-mitigation measurement is conducted by a person certified to conduct measurement; and
 - (e) Ensure all radon mitigation systems repaired or altered on or after January 1, 2013, meet the mitigation standard operating procedures established by an administrative regulation promulgated by the cabinet.

➔Section 4. KRS 211.9113 is amended to read as follows:

~~{(1)}~~ Each mitigation or measurement contractor shall maintain an insurance policy that:

- ~~(1){(a)}~~ Is issued by an insurance company or other legal entity permitted to transact insurance business in the Commonwealth of Kentucky;
- ~~(2){(b)}~~ Provides for general liability coverage in an amount of at least five hundred thousand dollars (\$500,000) ~~and for measurement contractors, errors and omissions coverage in an amount of at least five hundred thousand dollars (\$500,000)~~ that is maintained in effect at all times during the certification period;
- ~~(3){(e)}~~ Lists the cabinet as a certificate holder of any insurance policy issued under ~~this~~ subsection *(1) of this section*; and

~~(4)(d)~~ States that cancellation or nonrenewal of the underlying liability insurance policy is not effective until the cabinet receives at least ten (10) days' written notice of the cancellation or nonrenewal.

~~(2)(a)~~ Before a mitigation or measurement contractor is certified, he or she shall file with the cabinet a license and permit bond to be approved by the cabinet and shall maintain the license and permit bond during the term of the certification payable to the Commonwealth in the sum of ten thousand dollars (\$10,000).

~~(b)~~ The bond shall be conditioned on the applicant's compliance with KRS 211.9101 to 211.9135 and any administrative regulations promulgated thereunder by the cabinet.

~~(c)~~ The bond shall be on a form prescribed by the cabinet through promulgation of an administrative regulation.

~~(d)~~ The license and permit bond shall be executed by a corporate surety authorized to transact surety business in the Commonwealth of Kentucky.

~~(e)~~ The bond shall be continuous and may be canceled by the surety upon the surety giving written notice to the cabinet of its intent to cancel the bond. The cancellation shall be effective ten (10) days after the notice is sent to the cabinet. Cancellation by the surety shall not affect the surety's obligation for liability that accrued under the bond prior to the effective date of cancellation.

~~(f)~~ Whether or not the bond is renewed, continued, reinstated, reissued, or otherwise extended, replaced, or modified, including increases or decreases in the penal sum, it shall be considered one (1) continuous obligation. Regardless of the number of years the bond remains in effect, the number of premiums paid, the number of renewals of the license, or the number of claims made, the aggregate liability of the surety shall not exceed the penal amount of the bond.]

➔Section 5. KRS 211.9117 is amended to read as follows:

(1) Any person certified and given a certification number by the cabinet as a measurement or mitigation contractor shall:

(a) Prominently display his or her certification number on all advertising disseminated, whether directly or indirectly, to the general public, except when advertising pertains to novelty items such as small mass-produced items of minimal value;

(b) Prominently display his or her certification number on all vehicles utilized in advertising, using letters and numbers at least three (3) inches in height. The certification number shall be legible and visible at all times the vehicle is being operated; and

(c) When operating under the name of a business entity, satisfy the requirements of paragraphs (a) and (b) of this subsection by displaying the certification number of the measurement or mitigation contractor, as applicable, employed by the business entity.

(2) A person certified as both a measurement and mitigation contractor who conducts mitigation on a residential or commercial building shall not conduct measurement on that same building to determine the need for mitigation~~, or the successful completion of mitigation activities, unless the measurement shall be used for diagnostic purposes only. At a minimum, the results of any measurement conducted to determine the need for mitigation, or the successful completion of mitigation activities, shall be sent directly to the person providing compensation for the mitigation activities by the independent measurement contractor conducting the measurement].~~

➔Section 6. KRS 211.9121 is amended to read as follows:

(1) A person seeking annual renewal of certification shall pay the renewal fee not to exceed two hundred fifty dollars (\$250) as promulgated by the cabinet in an administrative regulation and shall submit an application for renewal on a form prescribed by the cabinet. An application for renewal is deemed filed on the date that it is received by the cabinet.

(2) Certificates not renewed within thirty (30) days after the renewal date shall pay a late renewal fee not to exceed one hundred dollars (\$100) as promulgated by the cabinet in administrative regulation.

(3) Certificates not renewed within ninety (90) days of the renewal date shall lapse and may only be reinstated upon payment of a late renewal fee and initial certificate fee as promulgated by the cabinet in an administrative regulation and providing proof of insurance ~~and the license and permit bond~~ as required under KRS 211.9113.

- (4) A certified person shall report any change of information submitted in applying for certification in writing to the cabinet within ten (10) days of such change taking place. The cabinet shall not be responsible for a certified person not receiving notices, communications, and other correspondence caused by failure of the certified person to report changes.
- (5) The cabinet shall promulgate administrative regulations for establishing an inactive certification status.

Signed by Governor March 21, 2013.

CHAPTER 69

(SB 78)

AN ACT relating to the criminal justice system.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 216B.400 is amended to read as follows:

- (1) Where a person has been determined to be in need of emergency care by any person with admitting authority, no such person shall be denied admission by reason only of his or her inability to pay for services to be rendered by the hospital.
- (2) Every hospital of this state which offers emergency services shall provide that a physician, a sexual assault nurse examiner, who shall be a registered nurse licensed in the Commonwealth and credentialed by the Kentucky Board of Nursing as provided under KRS 314.142, or another qualified medical professional, as defined by administrative regulation promulgated by the Justice and Public Safety Cabinet in consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707, is available on call twenty-four (24) hours each day for the examinations of persons seeking treatment as victims of sexual offenses as defined by KRS 510.010 to 510.140, 530.020, 530.064(1)(a), and 531.310.
- (3) An examination provided in accordance with this section of a victim of a sexual offense may be performed in a sexual assault examination facility as defined in KRS 216B.015. An examination under this section shall apply only to an examination of a victim.
- (4) The physician, sexual assault nurse examiner, or other qualified medical professional, acting under a statewide medical forensic protocol which shall be developed by the Justice and Public Safety Cabinet in consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707, and promulgated by the secretary of justice and public safety pursuant to KRS Chapter 13A shall, upon the request of any peace officer or prosecuting attorney, and with the consent of the victim, or upon the request of the victim, examine such person for the purposes of providing basic medical care relating to the incident and gathering samples that may be used as physical evidence. This examination shall include but not be limited to:
 - (a) Basic treatment and sample gathering services; and
 - (b) Laboratory tests, as appropriate.
- (5) Each victim shall be informed of available services for treatment of sexually transmitted infections, pregnancy, and other medical and psychiatric problems. Pregnancy counseling shall not include abortion counseling or referral information.
- (6) Each victim shall be informed of available crisis intervention or other mental health services provided by regional rape crisis centers providing services to victims of sexual assault.
- (7) Notwithstanding any other provision of law, a minor may consent to examination under this section. This consent is not subject to disaffirmance because of minority, and consent of the parents or guardians of the minor is not required for the examination.
- (8) (a) The examinations provided in accordance with this section shall be paid for by the Crime Victims' Compensation Board at a rate to be determined by the administrative regulation promulgated by the board after consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707.

- (b) Upon receipt of a completed claim form supplied by the board and *an* itemized billing for a forensic sexual assault examination or related services *that are* within the scope of practice of the respective provider *and were performed no more than twelve (12) months prior to submission of the form*, the board shall reimburse the hospital or sexual assault examination facility, pharmacist, health department, physician, sexual assault nurse examiner, or other qualified medical professional as provided in administrative regulations promulgated by the board pursuant to KRS Chapter 13A. Reimbursement shall be made to an out-of-state nurse who is credentialed in the other state to provide sexual assault examinations, an out-of-state hospital, or an out-of-state physician if the sexual assault occurred in Kentucky.
 - (c) Independent investigation by the Crime Victims' Compensation Board shall not be required for payment of claims under this section; however, the board may require additional documentation or proof that the forensic medical examination was performed.
- (9) No charge shall be made to the victim for sexual assault examinations by the hospital, the sexual assault examination facility, the physician, the pharmacist, the health department, the sexual assault nurse examiner, other qualified medical professional, the victim's insurance carrier, or the Commonwealth.
- (10) (a) Each victim shall have the right to determine whether a report or other notification shall be made to law enforcement, except where reporting of abuse and neglect of a child, spouse, and other vulnerable adult is required, as set forth in KRS 209.030, 209A.030, and 620.030. No victim shall be denied an examination because the victim chooses not to file a police report, cooperate with law enforcement, or otherwise participate in the criminal justice system.
- (b) 1. All samples collected during an exam where the victim has chosen not to immediately report to law enforcement shall be stored, released, and destroyed, if appropriate, in accordance with an administrative regulation promulgated by the Justice and Public Safety Cabinet in consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707.
 - 2. Facilities collecting samples pursuant to this section may provide the required secure storage, sample destruction, and related activities, or may enter into agreements with other agencies qualified to do so, pursuant to administrative regulation.
 - 3. All samples collected pursuant to this section shall be stored for at least ninety (90) days from the date of collection in accordance with the administrative regulation promulgated pursuant to this subsection.
 - 4. Notwithstanding KRS 524.140, samples collected during exams where the victim chose not to report immediately or file a report within ninety (90) days after collection may be destroyed as set forth in accordance with the administrative regulation promulgated pursuant to this subsection. No hospital, sexual assault examination facility, or designated storage facility shall be liable for destruction of samples after the required storage period has expired.

➔Section 2. KRS 346.040 is amended to read as follows:

The board shall have the following powers and duties:

- (1) To establish and maintain necessary offices within this state, appoint employees and agents as necessary, and prescribe their duties and compensation;~~;~~
- (2) To promulgate, amend, and repeal suitable administrative regulations to carry out the provisions and purposes of this chapter, including administrative regulations for the approval of attorney's fees for representation before the board or upon judicial review as provided for in KRS 346.110;~~;~~
- (3) To hear and determine all matters relating to claims for compensation, and the power to reinvestigate or reopen claims without regard to statutes of limitations;~~;~~
- (4) To request from prosecuting attorneys and law enforcement officers investigations and data to enable the board to determine whether, and the extent to which, a claimant qualifies for compensation. The statute providing confidentiality for juvenile session of District Court records does not apply to proceedings under this chapter;~~;~~
- (5) To hold hearings in accordance with the provisions of KRS Chapter 13B. The powers provided in this subsection may be delegated by the board to any member or employee thereof. If necessary to carry out any of its powers and duties, the board may petition any Circuit Court for an order;~~;~~

- (6) To take or cause to be taken affidavits or depositions within or without the state;~~[-]~~
- (7) ***Upon the filing of an application by a claimant, to negotiate binding fee settlements with the providers of services to claimants that may be eligible for an award under subsection (3) of Section 4 of this Act;***
- (8) To make available for public inspection all board decisions and opinions, administrative regulations, written statements of policy, and interpretations formulated, promulgated, or used by it in discharging its functions;~~[-]~~
- ~~(9)~~~~(8)~~ To publicize widely the availability of reparations and information regarding the claims therefor; ~~and~~~~[-]~~
- ~~(10)~~~~(9)~~ To make an annual report, by January 1 of each year, of its activities for the preceding fiscal year to the Office of the State Budget Director and to the Interim Joint Committee on Appropriations and Revenue. Each such report shall set forth a complete operating and financial statement covering its operations during the year.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 346 IS CREATED TO READ AS FOLLOWS:

- (1) ***Upon the filing of an application for a claim with the board, all debt collection actions by a creditor or the creditor's agent, against the claimant for a debt or expense covered under subsection (3) of Section 4 of this Act and related to the substance of the claim shall cease pending a resolution of the claim by the board, if the claimant:***
 - (a) ***Provides written notice to the creditor or creditor's agent that a claim has been submitted to the board; and***
 - (b) ***Authorizes the creditor or creditor's agent to confirm with the board the claimant's application with the board and that the debt or expense upon which the collection action is based may be covered under subsection (3) of Section 4 of this Act.***
- (2) ***The board shall, upon the written request of a creditor or creditor's agent, notify the creditor or creditor's agent when a claim has been resolved.***

➔Section 4. KRS 346.130 is amended to read as follows:

- (1) No award shall be made unless the board or board member, as the case may be, finds that:
 - (a) Criminally injurious conduct occurred;
 - (b) Such criminally injurious conduct resulted in personal physical or psychological injury to, or death of, the victim; and
 - (c) Police ***or court*** records show that such crime was promptly reported to the proper authorities; and in no case may an award be made where the police ***or court*** records show that such report was made more than forty-eight (48) hours after the occurrence of such crime unless the board, for good cause shown, finds the delay to have been justified.
- (2) ***Except for claims related to sexual assault and domestic violence,*** the board upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies shall deny, reconsider, or reduce an award.
- (3) Any award made pursuant to this chapter shall be in an amount not exceeding out-of-pocket expenses, including indebtedness reasonably incurred for medical or other services, including mental health counseling, necessary as a result of the injury upon which the claim is based, together with loss of earnings or support resulting from such injury. Mental health counseling shall be paid for a maximum of two (2) years, but only after proper documentation is submitted to the board stating what treatment is planned and for what period of time. The board shall have the power to discontinue ***payment of*** mental health counseling at any time within the two (2) year period. Replacement of eyeglasses and other corrective lenses shall be included in an award, provided they were ***stolen, destroyed, broken*** or damaged during the crime.
- (4) Any award made for loss of earnings or ***financial*** support ***may be considered for a claimant who has loss of support or wages due to the crime for which the claim is filed.***~~[-]~~ Unless reduced pursuant to other provisions of this chapter, ***the award shall be equal to net earnings at the time of the criminally injurious conduct.***~~[-]~~ ~~be in an amount equal to the actual loss sustained; provided,~~ however,~~[-]~~ no such award shall exceed one hundred fifty dollars (\$150) for each week of lost earnings or ***financial*** support. The ***wage earner or source of support***~~[-]~~~~claimant or victim~~ must have been employed ***or paying support*** at the time the crime occurred. Said employment ***or support*** shall be verified by the staff of the board after information is provided by the claimant or victim. Should the claimant or victim fail to supply the board with the information requested, the portion of the claim for lost wages or support shall be denied. If there are two (2) or more

persons entitled to an award as a result of the injury or death of a person which is the direct result of criminally injurious conduct, the award shall be apportioned by the board among the claimants.

- (5) The board is authorized to set a reasonable limit for the payment of funeral and burial expenses which shall include funeral costs, a monument, and grave plot. In no event shall an award for funeral expenses exceed five thousand dollars (\$5,000).
- (6) Any award made under this chapter shall not exceed twenty-five thousand dollars (\$25,000) *in total compensation to be received by or paid on behalf of a claimant from the fund.*
- (7) No award shall be made for any type of property loss or damage, *except as otherwise permitted in this chapter.*

➔Section 5. KRS 346.140 is amended to read as follows:

- (1) Any award made pursuant to this chapter shall be reduced by the amount of any payments received or to be received by the claimant as a result of the injury from the following sources:
 - (a) From or on behalf of the person who committed the crime;
 - (b) Under insurance programs mandated by law;
 - (c) From public funds;
 - (d) Under any contract of insurance wherein the claimant is the insured or beneficiary;~~and~~
 - (e) As an emergency award pursuant to KRS 346.120; *and*
 - (f) *From donations made on behalf of the victim or claimant toward expenses incurred as a result of the crime.*
- (2) In determining the amount of an award, the board or board member~~, as the case may be,~~ shall determine whether, because of his *or her* conduct, *the claimant or* the victim of such crime contributed to the infliction of *the victim's*~~his~~ injury, and ~~the board or board member~~ shall reduce the amount of the award or reject the claim altogether, in accordance with such determination;~~provided,~~ however,~~that~~ the board or board member~~, as the case may be,~~ may disregard for this purpose the responsibility of the *claimant or the* victim for *the victim's*~~his own~~ injury where the record shows that such responsibility was attributable to efforts by the *claimant or* victim to prevent a crime or an attempted crime from occurrence in his *or her* presence or to apprehend a person who had committed a crime in his *or her* presence or had in fact committed a felony. The board or board members may request that either the county attorney or Commonwealth's attorney or both state whether in their opinion, the victim suffered injuries as the result of a crime and has cooperated with the prosecution and law enforcement authorities. The board or board member shall not be bound by such opinions and recommendations and if needed may order a further investigation of the claim.
- (3) The board or board member may consider whether the *victim's*~~claimant's~~ injuries were the ordinary and foreseeable result of unlawful and criminal activities in determining the claimant's eligibility for an award. If the board or board member~~, as the case may be,~~ finds that the claimant will not suffer serious financial *hardship*~~hardships, as a result of the loss of earnings or support and the out of pocket expenses incurred as a result of the injury,~~ if not granted financial assistance pursuant to this chapter~~to meet such loss of earnings, support or out of pocket expenses~~, the board or board member shall deny an award. In determining such serious financial hardship, the board or board member shall consider all of the financial resources of the claimant. The board shall establish specific standards by rule for determining such serious financial hardships.

➔Section 6. KRS 532.162 is amended to read as follows:

- (1) If the criminal garnishment is made upon the convicted person's earnings, the order of garnishment shall be a lien upon the earnings from the date of service on the garnishee until an order discontinuing the lien is entered. A convicted person may challenge the garnishment by filing a challenge to the garnishment with the sentencing court. The challenge shall be heard within ten (10) days of its filing or the nearest court date thereafter. Before the hearing, garnishment shall continue. Any moneys which the court determines were improperly garnished shall be repaid to the garnishee not later than thirty (30) days after the determination.
- (2) The circuit clerk's office shall disburse all collected reimbursement, restitution, and fees to the victim, *the Crime Victims Compensation Board*, or the local government, whichever is appropriate. The clerk shall be entitled to collect a fee of two dollars and fifty cents (\$2.50) from each account for which a disbursement is made at the time of disbursement. In the event of challenge to a garnishment, the appropriate clerk's office

shall not disburse those sums associated with the challenged garnishment until determination by the sentencing court regarding the propriety of the garnishment.

➔Section 7. KRS 6.949 is amended to read as follows:

- (1) Any bill, amendment, or committee substitute that creates a new crime, increases the penalty for an existing crime, decreases the penalty for an existing crime, changes the elements of the offense for an existing crime, repeals an existing crime, or proposes to increase, decrease, or otherwise impact incarceration shall be identified by the staff of the Legislative Research Commission as having a corrections impact on a "Corrections Impact Statement" form specified by the Legislative Research Commission.
- (2) If a bill, amendment, or committee substitute is identified as having a corrections impact under subsection (1) of this section, the staff of the Legislative Research Commission shall notify the sponsor of the bill, amendment, or committee substitute that a corrections impact is required.
- (3) If a bill, amendment, or committee substitute is identified as having a corrections impact, a "Corrections Impact Statement" shall be prepared by the staff of the Department of Corrections with the assistance of the Department of Kentucky State Police, Administrative Office of the Courts, Parole Board, and other persons, agencies, or organizations deemed necessary by the Department of Corrections staff assigned to prepare the corrections impact statement. The Department of Kentucky State Police, Administrative Office of the Courts, Parole Board, and other persons, agencies, and organizations that have been requested to provide information for the corrections impact statement shall do so within the period of time specified by the Department of Corrections staff person requesting the information, which in no case shall exceed two (2) business days unless an extension is granted by the requesting staff person.
- (4) The corrections impact statement shall contain the estimated costs, estimated savings, and necessary appropriations based upon:
 - (a) Incarceration in jail prior to trial and during trial based on the available information about persons granted bail or other form of pretrial release and the length of time spent in jail prior to release;
 - (b) Supervision of a person who has been granted bail or pretrial release based on the average time spent between the time of release until the time of trial for the offense;
 - (c) Incarceration in jail for a misdemeanor following conviction based on the maximum time of incarceration authorized for the offense;
 - (d) Incarceration in a state correctional facility for a capital offense, or felony offense based on the maximum and minimum length of incarceration authorized for the offense, except for offenses in which incarceration in a county jail for a Class D felony is required;
 - (e) Incarceration in a county jail for a Class D felony for which incarceration in a county jail is authorized based on the maximum and minimum sentence of incarceration authorized for a Class D felony;
 - (f) Probation or conditional discharge supervision based on the maximum time of probation or conditional discharge authorized for the offense;
 - (g) Parole supervision based on the *minimum expiration of sentence* ~~[average length of parole supervision authorized for the offense assuming full parole supervision];~~ and
 - (h) ~~[Mandated]~~ Treatment, education, and other programs which are to be paid by the state ~~[, unit of local government, or public agency]~~ based on the *average costs actually paid by the Department of Corrections during the previous fiscal year* ~~[number of persons anticipated to be required to complete the program if the education, treatment, or other program is not normally offered as a part of a defendant's incarceration and is required to be completed outside of a correctional facility].~~
- (5) Insofar as possible, costs and savings for a change to an existing crime shall be calculated using:
 - (a) Arrest data for the crime from the Department of Kentucky State Police;
 - (b) Pretrial incarceration data from the Administrative Office of the Courts;
 - (c) Preconviction jail data from the Administrative Office of the Courts;
 - (d) Conviction data from the Administrative Office of the Courts;
 - (e) Postconviction jail and imprisonment data from the Department of Corrections;
 - (f) Probation and parole data from the Department of Corrections; and

- (g) Data from applicable agencies or organizations providing treatment, education, or other mandated programs.
- (6) Insofar as possible, costs or savings for a new crime shall be calculated in the same manner as specified in subsection (5) of this section using data for similar crimes unless that is determined by the Department of Corrections staff person to be impractical or impossible in which case the estimate for a new crime may be prepared using:
 - (a) The maximum and minimum length of incarceration for the offense;
 - (b) An estimate of cost based on ten (10) persons being charged with the offense, and based on one hundred (100) persons being charged with the offense;
 - (c) An estimate of cost based on ten (10) persons and one hundred (100) persons being convicted of the offense and sent to jail if the offense is a misdemeanor using the criteria specified in subsection (7) of this section; and
 - (d) An estimate of cost based on ten (10) persons and one hundred (100) persons being convicted of a felony offense requiring imprisonment in a state-operated correctional facility unless the offense is a Class D felony for which imprisonment in a county jail is required in which case the cost shall be based on the amount paid by the Department of Corrections for a person incarcerated in a county jail for a Class D felony.
- (7) Costs or savings shall be based on the average costs actually paid by the Department of Corrections during the previous fiscal year for incarceration of a person in a state correctional facility, the average cost for supervision of a person placed on probation without electronic monitoring, the average cost of a person placed on probation with electronic monitoring, the average cost of parole supervision without electronic monitoring, and the average cost of parole supervision with electronic monitoring.
- (8) If an amendment to a bill is combined into a committee substitute or a GA version of the bill is created incorporating a floor amendment, a new corrections impact statement shall be prepared combining the information in the original bill as modified by the amendment.

➔Section 8. KRS 27A.097 is amended to read as follows:

- (1) As used in this section, "evidence-based practices" means intervention programs and supervision policies, procedures, programs, and practices that scientific research demonstrates reduce instances of a defendant's failure to appear in court and criminal activity among defendants when implemented competently.
- (2) In order to increase the effectiveness of supervision and intervention programs funded by the state and provided to defendants, the Supreme Court shall require that a vendor or contractor providing supervision and intervention programs for adult criminal defendants use evidence-based practices.
- (3) The Supreme Court shall measure the effectiveness of supervision and intervention programs provided by vendors or contractors and demonstrate that the programs have a documented evidence base and have been evaluated for effectiveness in reducing a defendant's failure to appear in court and criminal activity.
- (4) The Supreme Court shall require, at a minimum, the following:
 - (a) A process for reviewing the objective criteria for evidence-based practices established by the vendor or contractor providing the program;
 - (b) A process for auditing the effectiveness of the program;
 - (c) An opportunity for programs that do not meet the criteria based on the audit results to improve performance; and
 - (d) A mechanism to defund any program provided by a vendor or contractor that does not meet the criteria upon a second audit.
- (5) Beginning July 1, 2012, twenty-five percent (25%) of state moneys expended on supervision and intervention programs for pretrial defendants shall be for programs that are in accordance with evidence-based practices. Beginning July 1, ~~2014~~~~2016~~, fifty percent (50%) of state moneys expended on supervision and intervention programs shall be for programs that are in accordance with evidence-based practices. Beginning July 1, 2016, and thereafter, seventy-five percent (75%) of state moneys expended on supervision and intervention programs shall be for programs that are in accordance with evidence-based practices.

➔Section 9. KRS 197.045 is amended to read as follows:

- (1) Any person convicted and sentenced to a state penal institution:
- (a) Shall receive a credit on his or her sentence for:
 1. Prior confinement as specified in KRS 532.120;
 2. Successfully receiving a general equivalency diploma or a high school diploma, a two (2) or four (4) year college degree, a two (2) year or four (4) year ~~degree~~~~certification~~ in applied sciences, a **completed** technical education **program, or an online or correspondence education program, each**~~diploma~~ as provided and defined by the department, or a civics education program that requires passing a final exam, in the amount of ninety (90) days per diploma, degree, or **technical education program completed**~~certification received~~; and
 3. Successfully completing a drug treatment program or other **evidence-based** program **approved**~~as defined~~ by the department ~~that requires participation for a minimum of six (6) months~~, in the amount of ninety (90) days for each program completed; and
 - (b) May receive a credit on his or her sentence for:
 1. Good behavior in an amount not exceeding ten (10) days for each month served, to be determined by the department from the conduct of the prisoner;
 2. Performing exceptionally meritorious service or performing duties of outstanding importance in connection with institutional operations and programs, awarded at the discretion of the commissioner in an amount not to exceed seven (7) days per month; and
 3. Acts of exceptional service during times of emergency, awarded at the discretion of the commissioner in an amount not to exceed seven (7) days per month.
- (2) Except for a sentencing credit awarded for prior confinement, the department may forfeit any sentencing credit awarded under subsection (1) of this section previously earned by the prisoner or deny the prisoner the right to earn future sentencing credit in any amount if during the term of imprisonment, a prisoner commits any offense or violates the rules of the institution.
- (3) When two (2) or more consecutive sentences are to be served, the several sentences shall be merged and served in the aggregate for the purposes of the sentencing credit computation or in computing dates of expiration of sentence.
- (4) Until successful completion of the sex offender treatment program, an eligible sexual offender may earn sentencing credit. However, the sentencing credit shall not be credited to the eligible sexual offender's sentence. Upon the successful completion of the sex offender treatment program, as determined by the program director, the offender shall be eligible for all sentencing credit earned but not otherwise forfeited under administrative regulations promulgated by the Department of Corrections. After successful completion of the sex offender treatment program, an eligible sexual offender may continue to earn sentencing credit in the manner provided by administrative regulations promulgated by the Department of Corrections. Any eligible sexual offender, as defined in KRS 197.410, who has not successfully completed the sex offender treatment program as determined by the program director shall not be entitled to the benefit of any credit on his or her sentence. A sexual offender who does not complete the sex offender treatment program for any reason shall serve his or her entire sentence without benefit of sentencing credit, parole, or other form of early release. The provisions of this section shall not apply to any sexual offender convicted before July 15, 1998, or to any sexual offender with an intellectual disability.
- (5) (a) The Department of Corrections shall, by administrative regulation, specify the length of forfeiture of sentencing credit and the ability to earn sentencing credit in the future for those inmates who have civil actions dismissed because the court found the action to be malicious, harassing, or factually frivolous.
 - (b) Penalties set by administrative regulation pursuant to this subsection shall be as uniform as practicable throughout all institutions operated by, under contract to, or under the control of the department and shall specify a specific number of days or months of sentencing credit forfeited as well as any prohibition imposed on the future earning of sentencing credit.
- (6) **The provisions in subparagraph 2. of paragraph (a) of subsection (1) of this section shall apply retroactively to July 15, 2011.**

➔Section 10. KRS 439.3406 is amended to read as follows:

- (1) The board shall order mandatory reentry supervision *six (6) months prior to the projected completion date of an inmate's sentence* for an inmate who has not been granted discretionary parole ~~[six (6) months prior to the inmate's minimum expiration of sentence]~~.
- (2) The provisions of subsection (1) of this section shall not apply to an inmate who:
- Is not eligible for parole by statute;
 - Has been convicted of a capital offense or a Class A felony;
 - Has a maximum or close security classification as defined by administrative regulations promulgated by the department;
 - Has been sentenced to two (2) years or less of incarceration;
 - Is subject to the provisions of KRS 532.043; or
 - Has six (6) months or less to be served after his or her sentencing by a court or recommitment to prison for a violation of probation, shock probation, parole, or conditional discharge.
- (3) An inmate granted mandatory reentry supervision pursuant to this section may be returned by the board to prison for violation of the conditions of supervision and shall not again be eligible for mandatory reentry supervision during the same period of incarceration.
- (4) An inmate released to mandatory reentry supervision shall be considered to be released on parole.
- (5) Mandatory reentry supervision is not a commutation of sentence or any other form of clemency.
- (6) No hearing shall be required for the board to order an inmate to mandatory reentry supervision pursuant to subsection (1) of this section. Terms of supervision for inmates released on mandatory reentry supervision shall be established as follows:
- The board shall adopt administrative regulations establishing general conditions applicable to each inmate ordered to mandatory reentry supervision pursuant to subsection (1) of this section. If an inmate is ordered to mandatory reentry supervision, the board's order shall set forth the general conditions and shall require the inmate to comply with the general conditions and any requirements imposed by the department in accordance with this section;
 - Upon intake of an inmate ordered to mandatory reentry supervision by the board, the department shall use the results of the risk and needs assessment administered pursuant to KRS 439.3104(1) to establish appropriate terms and conditions of supervision, taking into consideration the level of risk to public safety, criminal risk factors, and the need for treatment and other interventions. The terms and conditions imposed by the department under this paragraph shall not conflict with the general conditions adopted by the board pursuant to paragraph (a) of this subsection; and
 - The powers and duties assigned to the commissioner in relation to probation or parole under KRS 439.470 shall be assigned to the commissioner in relation to mandatory reentry supervision.
- (7) Subject to subsection (3) of this section, the period of mandatory reentry supervision shall conclude upon completion of the individual's minimum expiration of sentence.
- (8) If the board issues a warrant for the arrest of an inmate for absconding from supervision during the mandatory reentry supervision period, and the inmate is subsequently returned to prison as a violator of conditions of supervision for absconding, the inmate shall not receive credit toward the remainder of his or her sentence for the time spent absconding.
- (9) The department shall report the results of the mandatory reentry supervision program to the Interim Joint Committee on Judiciary by February 1, 2015.
- ➔Section 11. KRS 441.045 is amended to read as follows:
- The county governing body shall prescribe rules for the government, security, safety, and cleanliness of the jail and the comfort and treatment of prisoners, provided such rules are consistent with state law. The county judge/executive may inspect the jail at any reasonable time.
 - Willful violation of the rules promulgated pursuant to subsection (1) of this section shall be deemed a violation.

- (3) Except as provided in subsections (4) and (5) of this section, the cost of providing necessary medical, dental, and psychological care for indigent prisoners in the jail shall be paid from the jail budget.
- (4) The cost of providing necessary medical, dental, or psychological care for prisoners of the United States government shall be paid as provided by contract between the United States government and the county or as may otherwise be provided by federal law.
- (5) (a) The cost of providing necessary medical, dental, or psychological care, beyond routine care and diagnostic services, for prisoners held pursuant to a contractual agreement with the state shall be paid as provided by contract between the state and county. The costs of necessary medical, dental, or psychological care, beyond routine care and diagnostic services, of prisoners held in the jail for which the county receives a per diem payment shall be paid by the state.
- (b) ***To the extent that federal law allows and federal financial participation is available, for the limited purpose of implementing this section, the jail, the department, or the department's designee is authorized to act on behalf of an inmate for purposes of applying for Medicaid eligibility.***
- (6) The cost of providing necessary medical, dental, or psychological care for prisoners held pursuant to a contractual agreement with another county or a city shall be paid as provided by contract between the county or city and county.
- (7) (a) When the cost of necessary medical, dental, or psychological care for a prisoner exceeds one thousand dollars (\$1,000), as calculated by using the maximum allowable costs to similar persons or facilities for the same or similar services under the Kentucky Medical Assistance Program, the state shall reimburse the county for that portion of the costs that exceeds one thousand dollars (\$1,000). The reimbursement shall be subject to the following terms and conditions:
1. The care is necessary as defined in subsection (10) of this section;
 2. The prisoner is indigent as defined in subsection (8) of this section, or is uninsured; and
 3. No state reimbursement to the county for care provided by physicians, hospitals, laboratories, or other health care providers shall exceed the maximum payments allowed to similar persons or facilities for the same or similar services under the Kentucky Medical Assistance Program, except as provided in subsection (11) of this section.
- (b) A county may assign its ability to receive payment from the state under this subsection to the person providing the medical, dental, or psychological care to the prisoner, which assignment shall be accepted by the provider for the purposes of submitting billing directly to the state. The state shall pay or deny a claim submitted to it within ninety (90) days of receiving the claim. The county shall include with the assignment the information required by subsection (8) of this section necessary to qualify the prisoner as indigent. The provider shall bill for any other public or private health benefit plan or health insurance benefits available to the prisoner prior to billing the state under this subsection, and shall bill the state prior to billing the county. The county shall retain ultimate payment responsibility as established under subsection (3) of this section, and the provider may bill the county for payment after the expiration of ninety (90) days from the date the provider submitted the claim to the state for payment if the claim remains unpaid at that time.
- (8) (a) The determination of whether a prisoner is indigent shall be made pursuant to KRS 31.120, and may be evidenced by the affidavit of indigency required by that statute or the appointment of a public defender under that statute. The prisoner shall not be considered indigent, in the case of prisoner medical care, if:
1. The prisoner has funds on his inmate account to cover all or a portion of his medical expenses;
 2. The prisoner's medical expenses are covered on a medical insurance policy; or
 3. The prisoner has the private resources to pay for the use of the medical facilities.
- (b) Prisoners who are later determined not to have been indigent, or who at a time following treatment are no longer indigent, shall be required to repay the costs of payments made pursuant to this section to the unit of government which made the payment.
- (9) The terms and conditions relating to any determination of nonindigency and demands for repayment shall be under the same terms and conditions as are provided under KRS Chapters 31 and 431 relating to similar circumstances in the program for defense of indigents by the public advocate.

- (10) For the purposes of this section, "necessary care" means care of a nonelective nature that cannot be postponed until after the period of confinement without hazard to the life or health of the prisoner.
- (11) Any money appropriated for a given fiscal year to fund the state's obligation under subsection (7) of this section which remains unspent at the end of the year shall not lapse but shall be made available to satisfy, to the maximum extent possible, that portion of each catastrophic claim made during said year above the threshold amount for which the county did not receive state assistance pursuant to subsection (7) of this section. In the event there is an insufficient surplus to satisfy said balance of all such catastrophic claims which are made during that year, the state shall pay to those qualified counties, on a per claim basis, an amount equal to each claim's percentage of the total surplus. Should the surplus be sufficient to satisfy all such catastrophic claims, the amount remaining, if any, shall not lapse but shall be carried forward to the next fiscal year to be made available for future catastrophic claims.
- (12) Notwithstanding other provisions of this section to the contrary, a jail may impose a reasonable fee for the use of jail medical facilities by a prisoner who has the ability to pay for the medical care. These funds may be deducted from the prisoner's inmate account. A prisoner shall not be denied medical treatment because he has insufficient funds on his inmate account. This subsection shall not preclude other recovery of funds as provided in this section.
- (13) (a) Notwithstanding any other provision of this section to the contrary, a jail may impose a reasonable fee for the use of jail medical facilities by a state prisoner who has been placed in a local jail pursuant to a contract with the Department of Corrections under KRS 532.100 or other statute, and who has the ability to pay for medical care.
- (b) Funds may be deducted from the state prisoner's inmate account at the jail.
- (c) A state prisoner shall not be denied medical treatment because he or she has insufficient funds in his or her inmate account.
- (d) This subsection shall not preclude other recovery of funds as provided in this section.
- (e) This subsection does not authorize recovery of funds from a prisoner for medical care which has been paid or reimbursed by the state pursuant to this section.
- (14) Except as provided in subsection (4), (5), or (8) of this section, all payments for necessary medical, dental, or psychological care for jail, regional jail, or holdover prisoners shall be made at a rate not to exceed the Medicaid rate for the same or similar services, which shall be paid within thirty (30) days under the provisions of KRS 65.140 of receiving a claim from the health facility or provider for the item or service. This subsection shall not obligate the Medicaid program to pay for services provided to a prisoner.
- (15) (a) A peace officer or correctional officer having custody of a person shall not release the person from custody so that the person may receive treatment from a health care facility or health care provider, except pursuant to an order issued by a court of competent jurisdiction which specifically names the person to receive treatment.
- (b) A peace officer or correctional officer having custody of a person may take the person to a health care facility or health care provider for the purpose of receiving treatment if a correctional officer remains with the person during the time the person is on the premises of the health care facility or health care provider, unless the facility or provider consents to the absence of the officer.
- (c) A county, urban-county, consolidated local government, charter county, unified local government, jail, regional jail, holdover, local detention center, or other local correctional facility shall not be responsible for paying for the medical or other health care costs of a person who is released by a court of competent jurisdiction, except where the release is for the purpose of receiving medical or other health care services as evidenced by an order requiring the person to return to custody upon completion of treatment.
- (d) When a county, urban-county, consolidated local government, charter county, unified local government, jail, regional jail, holdover, local detention center, or other local correctional facility is responsible for paying for medical or other health care costs under paragraph (c) of this subsection, payment shall be made only at the Medicaid rate for same or similar services.
- (e) For the purposes of this subsection, "correctional officer" includes a:
1. Jailer or deputy jailer;

2. Director or other person in charge of a local detention center, local correctional facility, or regional jail; and
3. Correctional officer employed by a local detention center, local correctional facility, or regional jail.

➔Section 12. KRS 441.420 is amended to read as follows:

- (1) No political subdivision of this Commonwealth, combination of subdivisions, or regional jail authority shall build a new local correctional facility unless:
 - (a) The facility meets the approval or complies with the standards and administrative regulations of the department promulgated pursuant to KRS 441.055;
 - (b) The construction results in a new facility with:
 1. A minimum capacity of one hundred fifty (150) prisoner beds; or
 2. If a larger facility is needed, more than one hundred fifty (150) prisoner beds in fifty (50) bed increments; and
 - (c) Construction of the local correctional facility is approved by the construction authority.
- (2) Final authority for approval of plans for the construction of a local correctional facility, or an addition to a local correctional facility shall rest with the construction authority.
- (3) The department shall pay~~the design fees~~ for *the* architectural *plans* and engineering services associated with any new local correctional facility approved by the construction authority.
- (4) The department may promulgate administrative regulations to create a fee schedule for architectural plans~~and architectural~~ and engineering services required for the construction of local correctional facilities. A sample fee schedule for architectural plans~~and architectural~~ and engineering services may be developed by a committee consisting of department personnel, architects, and construction managers.

➔Section 13. KRS 441.430 is amended to read as follows:

- (1) Any political subdivision, or combination of subdivisions, desiring to build a local correctional facility shall make application, in writing, to the department and the construction authority for approval of the plans for the local correctional facility not less than ninety (90) days before the advertising for bids for construction of the facility, or if bids are not to be let, ninety (90) days before the construction commences. ***The application shall include documentation of the items required by subsection (3) of this section.***
- (2) The department's jail consultants shall review the *application*~~plans~~ and within thirty (30) days of the department's receipt of the application, make a recommendation to the construction authority~~as to whether the plans should be approved~~. The construction authority shall make a decision within sixty (60) days after the department's jail consultants make their recommendation. The construction authority may delay a final decision on the construction of any new local correctional facility if the construction authority determines that it has insufficient information upon which to base a decision. If the construction authority determines that it has insufficient information upon which to base a decision, a final decision shall be delayed but shall be made within sixty (60) days after receipt of the information required by the construction authority. Construction shall not commence until the requisite approval is obtained.
- (3) The construction authority shall not approve the construction of a local correctional facility unless the political subdivision or combination of subdivisions desiring to build a local correctional facility proves to the satisfaction of the construction authority that:
 - (a) The construction of a new local correctional facility is necessary;
 - (b) The construction of a new local correctional facility with the number of beds proposed is necessary;
 - (c) The political subdivision or combination of political subdivisions has sufficient bonding and revenue sources to pay the bonded indebtedness of the proposed local correctional facility;
 - (d) The number and sources of prisoners for the local correctional facility is sufficient to maintain the financial viability of the local correctional facility;
 - (e) The projected operating costs for the local correctional facility are appropriate to maintain the financial viability of the local correctional facility;

- (f) The sources of revenue are sufficient to pay, in addition to the bonded indebtedness, the operation costs and maintenance for the local correctional facility;
 - (g) If applicable, there are contracts or interlocal cooperation agreements specifying details for sharing the liability for the costs of paying the bonded indebtedness and the operation costs for the local correctional facility;
 - (h) If applicable, there are contracts or interlocal cooperation agreements specifying details for the management and operation of the local correctional facility; and
 - (i) All information has been provided that the construction authority required pursuant to administrative regulation.
- (4) (a) *Upon approval by the construction authority of the new local correctional facility, or the expansion of an existing correctional facility, architectural plans shall be submitted to the department for approval. The department's jail consultants shall review the architectural plans and within sixty (60) days notify the applicant and the construction authority of their findings.*
- (b) *The department's jail consultants may delay final approval of the architectural plans if the jail consultants determine the architectural plans for the facility do not comply with administrative regulations of the department promulgated pursuant to KRS 441.055.*
- (c) *If the department determines that it has insufficient information upon which to make a decision, a final decision shall be delayed but shall be made within sixty (60) days after receipt of the information requested.*
- (d) *Construction shall not commence until the requisite approvals have been obtained.*
- (e) *If approval is denied by the department's jail consultants, the political subdivision or combination of subdivisions requesting the construction or expansion of a local correctional facility may appeal the decision to the construction authority.*

➔Section 14. KRS 441.440 is amended to read as follows:

Except as provided in KRS 441.450, local correctional facilities shall be constructed pursuant to the approved *architectural* plans, and no alterations to the *architectural* plans or construction shall be made unless prior approval is obtained from the construction authority *or the department if the alteration would increase the cost or bed capacity beyond the approved amounts. Alterations may be approved by the department in an amount not to exceed ten percent (10%) of the approved application. Any alteration or combination of alterations that exceed ten percent (10%) of the approved application shall be approved by the construction authority* ~~upon recommendation of the department's jail consultants~~.

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

- (1) *Beginning January 1, 2014, every petition filed seeking expungement shall include a certification of eligibility for expungement. The Department of Kentucky State Police and the Administrative Office of the Courts shall certify that the agencies have conducted a criminal background check on the petitioner and whether or not the petitioner is eligible to have the requested record expunged. The Department of Kentucky State Police shall promulgate administrative regulations to implement this section, in consultation with the Administrative Office of the Courts.*
- (2) *For the purposes of this section and Sections 2 and 3 of this Act, "expungement" means the removal or deletion of records by the court and other agencies which prevents the matter from appearing on official state performed background checks.*

➔Section 16. KRS 431.076 is amended to read as follows:

- (1) A person who has been charged with a criminal offense and who has been found not guilty of the offense, or against whom charges have been dismissed with prejudice, and not in exchange for a guilty plea to another offense, may make a motion, in the District or Circuit Court in which the charges were filed, to expunge all records ~~including, but not limited to, arrest records, fingerprints, photographs, index references, or other data, whether in documentary or electronic form, relating to the arrest, charge, or other matters arising out of the arrest or charge~~.
- (2) The expungement motion shall be filed no sooner than sixty (60) days following the order of acquittal or dismissal by the court.

- (3) Following the filing of the motion, the court may set a date for a hearing. If the court does so, it shall notify the county or Commonwealth's attorney, as appropriate, of an opportunity for a response to the expungement motion. In addition, if the criminal charge relates to the abuse or neglect of a child, the court shall also notify the Office of General Counsel of the Cabinet for Health and Family Services of an opportunity for a response to the expungement motion. The counsel for the Cabinet for Health and Family Services shall respond to the expungement motion, within twenty (20) days of receipt of the notice, which period of time shall not be extended by the court, if the Cabinet for Health and Family Services has custody of records reflecting that the person charged with the criminal offense has been determined by the cabinet or by a court under KRS Chapter 620 to be a substantiated perpetrator of child abuse or neglect. If the cabinet fails to respond to the expungement motion or if the cabinet fails to prevail, the order of expungement shall extend to the cabinet's records. If the cabinet prevails, the order of expungement shall not extend to the cabinet's records.
- (4) If the court finds that there are no current charges or proceedings pending relating to the matter for which the expungement is sought, the court may grant the motion and order the ~~expunging~~^{sealing} of all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records. The court shall order the ~~expunging~~^{sealing} on a form provided by the Administrative Office of the Courts. Every agency, with records relating to the arrest, charge, or other matters arising out of the arrest or charge, that is ordered to ~~expunge~~^{seal} records, shall certify to the court within sixty (60) days of the entry of the expungement order, that the required ~~expunging~~^{sealing} action has been completed. All orders enforcing the expungement procedure shall also be ~~expunged~~^{sealed}.
- (5) After the expungement, the proceedings in the matter shall be deemed never to have occurred. ***The court and other agencies shall delete or remove the records from their computer systems so that any official state performed background check will indicate that the records do not exist.*** The court and other agencies shall reply to any inquiry that no record exists on the matter. The person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application.
- (6) ~~Inspection of the expunged records may thereafter be permitted by the court only upon a motion by the person who is the subject of the records and only to those persons named in the motion.~~
- ~~(7) This section shall be retroactive.~~

➔Section 17. KRS 431.078 is amended to read as follows:

- (1) Any person who has been convicted of a misdemeanor, ~~or~~ a violation, ***or a traffic infraction not otherwise classified as a misdemeanor or violation***, or a series of misdemeanors, ~~or~~ violations, ***or traffic infractions*** arising from a single incident, may petition the court in which he was convicted for expungement of his misdemeanor or violation record, including a record of any charges for misdemeanors or violations that were dismissed or amended in the criminal action. The person shall be informed of the right at the time of adjudication.
- (2) Except as provided in KRS 218A.275(8) and 218A.276(8), the petition shall be filed no sooner than five (5) years after the completion of the person's sentence or five (5) years after the successful completion of the person's probation, whichever occurs later.
- (3) Upon the filing of a petition, the court shall set a date for a hearing and shall notify the county attorney; the victim of the crime, if there was an identified victim; and any other person whom the person filing the petition has reason to believe may have relevant information related to the expungement of the record. Inability to locate the victim shall not delay the proceedings in the case or preclude the holding of a hearing or the issuance of an order of expungement.
- (4) The court shall order ~~expunged~~^{sealed} all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records, if at the hearing the court finds that:
 - (a) The offense was not a sex offense or an offense committed against a child;
 - (b) The person had no previous felony conviction;
 - (c) The person had not been convicted of any other misdemeanor or violation offense in the five (5) years prior to the conviction sought to be expunged;
 - (d) The person had not since the time of the conviction sought to be expunged been convicted of a felony, a misdemeanor, or a violation;

- (e) No proceeding concerning a felony, misdemeanor, or violation is pending or being instituted against him; and
 - (f) The offense was an offense against the Commonwealth of Kentucky.
- (5) Upon the entry of an order to ~~expunge~~^{seal} the records, and payment to the circuit clerk of one hundred dollars (\$100), the proceedings in the case shall be deemed never to have occurred; ***the court and other agencies shall cause records to be deleted or removed from their computer systems so that the matter shall not appear on official state performed background checks***~~[all index references shall be deleted]~~; the persons and the court may properly reply that no record exists with respect to the persons upon any inquiry in the matter; and the person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application. The first fifty dollars (\$50) of each fee collected pursuant to this subsection shall be deposited into the general fund, and the remainder shall be deposited into a trust and agency account for deputy clerks.
- (6) Copies of the order shall be sent to each agency or official named therein.
- (7) Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person who is the subject of the records and only to those persons named in the petition.
- (8) This section shall be deemed to be retroactive, and any person who has been convicted of a misdemeanor prior to July 14, 1992, may petition the court in which he was convicted, or if he was convicted prior to the inception of the District Court to the District Court in the county where he now resides, for expungement of the record of one (1) misdemeanor offense or violation or a series of misdemeanor offenses or violations arising from a single incident, provided that the offense was not one specified in subsection (4) and that the offense was not the precursor offense of a felony offense for which he was subsequently convicted. This section shall apply only to offenses against the Commonwealth of Kentucky.
- (9) *As used in this section, "violation" has the same meaning as in KRS 500.080.*
- (10) *Any person denied an expungement prior to the effective date of this Act due to the presence of a traffic infraction on his or her record may file a new petition for expungement of the previously petitioned offenses, which the court shall hear and decide under the terms of this section. No court costs or other fees, from the court or any other agency, shall be required of a person filing a new petition under this subsection.*

➔Section 18. The following KRS section is repealed:

346.190 Reciprocal agreements with other states -- Provisions -- Effect.

Signed by Governor March 21, 2013.

CHAPTER 70

(SB 95)

AN ACT relating to tuition waivers for adopted children who serve in the military.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 164.2847 is amended to read as follows:

- (1) Tuition and mandatory student fees for any undergraduate program of any Kentucky public postsecondary institution, including all four (4) year universities and colleges and institutions of the Kentucky Community and Technical College System, shall be waived for a Kentucky foster or adopted child who is a full-time or part-time student if the student meets all entrance requirements and maintains academic eligibility while enrolled at the postsecondary institution, and if:
 - (a) The student's family receives state-funded adoption assistance under KRS 199.555;
 - (b) The student is currently committed to the Cabinet for Health and Family Services under KRS 610.010(5) and placed in a family foster home or is placed in accordance with KRS 605.090(3);
 - (c) The student is in an independent living program and the placement is funded by the Cabinet for Health and Family Services;

- (d) The student who is an adopted child was in the permanent legal custody of and placed for adoption by the Cabinet for Health and Family Services. A student who meets the eligibility criteria of this paragraph and lives outside of Kentucky at the time of application to a Kentucky postsecondary institution may apply for the waiver up to the amount of tuition for a Kentucky resident; or
 - (e) The Cabinet for Health and Family Services was the student's legal custodian on his or her eighteenth birthday.
- (2) Tuition and mandatory student fees for any undergraduate program of any Kentucky public postsecondary institution, including all four (4) year universities and colleges and institutions of the Kentucky Community and Technical College System, shall be waived for a Department of Juvenile Justice foster child who is a full-time or part-time student if the student meets all entrance requirements and maintains academic eligibility while enrolled at the postsecondary institution and obtains a recommendation for participation from an official from the Department of Juvenile Justice, and if:
- (a) The student has not been sentenced to the Department of Juvenile Justice under KRS Chapter 640;
 - (b) The student has been committed to the Department of Juvenile Justice for a period of at least two (2) years;
 - (c) The student is in an independent living program and placement is funded by the Department of Juvenile Justice;
 - (d) The parental rights of the student's biological parents have been terminated; or
 - (e) The student was committed to the Cabinet for Health and Family Services prior to a commitment to the Department of Juvenile Justice.
- (3) Upon request of the postsecondary institution, the Cabinet for Health and Family Services shall confirm the eligibility status under subsection (1) of this section and the Department of Juvenile Justice shall confirm the eligibility status and recommendations under subsection (2) of this section of the student seeking to participate in the waiver program. Release of this information shall not constitute a breach of confidentiality required by KRS 199.570, 610.320, or 620.050.
- (4) The student shall complete the Free Application for Federal Student Aid to determine the level of need and eligibility for state and federal financial aid programs. If the sum of the tuition waiver plus other student financial assistance, except loans and the work study program under 42 U.S.C. secs. 2751-2756b, from all sources exceeds the student's total cost of attendance, as defined in 20 U.S.C. sec. 1087II, the tuition waiver shall be reduced by the amount exceeding the total cost of attendance.
- (5) The student shall be eligible for the tuition waiver:
- (a) For entrance to the institution for a period of no more than four (4) years after the date of graduation from high school; and
 - (b) For a period of five (5) years after first admittance to any Kentucky institution if satisfactory progress is achieved or maintained, *except when extended in accordance with subsection (6) of this section.*
- (6) ***The expiration of a student's five (5) year eligibility under subsection (5)(b) of this section shall be extended upon a determination by the institution that the student was unable to enroll for or complete an academic term due to serving:***
- (a) ***On active duty status in the United States Armed Forces;***
 - (b) ***As an officer in the Commissioned Corps of the United States Public Health Service; or***
 - (c) ***On active service in the Peace Corps Act or the Americorps.***
- The original expiration date shall be extended by the total number of years during which the student was on active duty status. The number of months served on active duty status shall be rounded up to the next higher year to determine the maximum length of eligibility extension allowed.***
- (7) The Cabinet for Health and Family Services shall report the number of students participating in the tuition waiver program under subsection (1) of this section and the Department of Juvenile Justice shall report the number of students participating in the tuition waiver program under subsection (2) of this section on October 1 each year to the Council on Postsecondary Education and the Legislative Research Commission.

- (8)(7) The Council on Postsecondary Education shall report nonidentifying data on graduation rates of students participating in the tuition waiver program by November 30 each year to the Legislative Research Commission.
- (9)(8) Nothing in this section shall be construed to:
- (a) Guarantee acceptance of or entrance into any postsecondary institution for a foster or adopted child;
 - (b) Limit the participation of a foster or adopted student in any other program of financial assistance for postsecondary education;
 - (c) Require any postsecondary institution to waive costs or fees relating to room and board; or
 - (d) Restrict any postsecondary institution, the Department of Juvenile Justice, or the Cabinet for Health and Family Services from accessing other sources of financial assistance, except loans, that may be available to a foster or adopted student.

Signed by Governor March 21, 2013.

CHAPTER 71

(SB 110)

AN ACT relating to the standardbred development fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 230.770 is amended to read as follows:

- (1) There is hereby created a trust and revolving fund for the Kentucky Horse Racing Commission, designated as the Kentucky standardbred development fund, consisting of money allocated to the fund under the provisions of KRS 138.510, together with any other money contributed to or allocated to the fund from all other sources. For the purposes of this section, "development fund" or "fund" means the Kentucky standardbred development fund. Money to the credit of the development fund shall be distributed by the Treasurer for the purposes provided in this section, upon authorization of the Kentucky Horse Racing Commission and upon approval of the secretary of the Finance and Administration Cabinet. Money to the credit of the fund at the end of each fiscal year shall not lapse but shall be carried forward in the fund to the succeeding fiscal year.
- (2) The Kentucky Horse Racing Commission shall use the development fund to promote races, and to provide purses for races, for ***Kentucky-bred standardbred*** horses ~~sired by stallions standing within the Commonwealth of Kentucky. For purposes of this section, the term "stallions standing within the Commonwealth of Kentucky" shall include only stallions registered with the Kentucky Horse Racing Commission.~~
- (3) The racing commission shall provide for distribution of money to the credit of the development fund to persons, corporations, or associations operating licensed standardbred race tracks within Kentucky on an equitable basis, for the purpose of conducting separate races for ***Kentucky-bred standardbred horses*** ~~two (2) and three (3) year old fillies and colts, both trotting and pacing, sired by standardbred stallions standing within the Commonwealth of Kentucky at the time of conception.~~
- (4) Money distributed from the development fund to licensed standardbred race tracks within the Commonwealth shall be used exclusively to promote races and provide purses for races conditioned to admit only ***Kentucky-bred standardbred horses*** ~~standardbred colts and fillies sired by standardbred stallions standing within the Commonwealth of Kentucky.~~
- (5) The Kentucky Horse Racing Commission shall fix the amount of money to be paid from the development fund to be added to the purse provided for each race by the licensed operator of the track; shall fix the dates and conditions of races to be held by licensed race tracks; and shall promulgate administrative regulations necessary to carry out the provisions of this section.
- (6) The Kentucky Horse Racing Commission may promulgate administrative regulations necessary to determine the eligibility of horses for entry in races for which a portion of the purse is provided by money of the development fund, including administrative regulations for the ***eligibility, residency, and registration of mares,***

stallions, *and progeny* ~~standing within Kentucky and progeny~~ thereof, ~~including registration of progeny of the stallions foaled prior to June 19, 1976~~. Registration of stallions ~~standing within Kentucky~~ may occur any time during the breeding season, *but* ~~and~~ shall occur no later than *December 31 of the year of conception of the eligible horse* ~~February 1 of each year~~.

- (7) The Kentucky Horse Racing Commission shall appoint qualified personnel necessary to supervise registration of, or determination of eligibility of, horses entitled to entry in races, a portion of the purse of which is provided by the development fund, to assist the racing commission in determining the conditions, class, and quality of the fund supported race program to be established hereunder so as to carry out the purposes of this section. These persons shall serve at the pleasure of the racing commission and compensation shall be fixed by the racing commission. The compensation of personnel and necessary expenses shall be paid out of the development fund. The racing commission shall promulgate administrative regulations to carry out the provisions of this section, and shall administer the Kentucky sire stakes program created hereby in a manner best designed to promote and aid in the development of the horse industry in Kentucky; to upgrade the quality of racing in Kentucky; and to improve the quality of horses bred in Kentucky.

Signed by Governor March 21, 2013.

CHAPTER 72

(SB 122)

AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 196.026 is amended to read as follows:

The Department of Corrections shall consist of the following organizational units:

- (1) Personnel Division;
- (2) Office of Adult Institutions, which shall have the following divisions:
 - (a) Division of Operations and Program Services;
 - (b) Division of Medical Services;
 - (c) Division of Mental Health Services;
 - (d) *Division of Substance Abuse Programming*;
 - (e) Division of Correctional Industries;
 - (f)~~(e)~~ Division of Kentucky State Reformatory;
 - (g)~~(f)~~ Division of Luther Luckett Correctional Complex;
 - (h)~~(g)~~ Division of Roederer Correctional Complex;
 - (i)~~(h)~~ Division of Blackburn Correctional Complex;
 - (j)~~(i)~~ Division of Kentucky Correctional Institution for Women;
 - ~~(j) — Division of Frankfort Career Development Center;~~
 - (k) Division of Northpoint Training Center Division;
 - (l) Division of Eastern Kentucky Correctional Complex;
 - (m) Division of Bell County Forestry Camp;
 - (n) Division of Kentucky State Penitentiary;
 - (o) Division of Western Kentucky Correctional Complex;
 - (p) Division of Green River Correctional Complex; and

(q) Division of Little Sandy Correctional Complex.

Each division specified in paragraphs (f)~~(e)~~ to (q) of this subsection shall be headed by a warden pursuant to KRS 196.160;

- (3) Office of Community Services and Facilities, which shall have the following divisions:
 - (a) Division of Probation and Parole; and
 - (b) Division of Local Facilities; and
- (4) Office of Support Services, which shall have the following divisions:
 - (a) Division of Administrative Services;
 - (b) Division of Corrections Training;~~{and}~~
 - (c) Division of Population Management; *and*
 - (d) ***Division of Parole and Victim Services.***

➔Section 2. KRS 196.701 is amended to read as follows:

- (1) To develop and implement a statewide strategic plan for the state and community corrections programs, the Kentucky State Corrections Commission is created and is attached to the Office of the Secretary of the Justice and Public Safety Cabinet. The commission shall consist of twenty-three (23) members as follows:
 - (a) The secretary of the Justice and Public Safety Cabinet or his or her designee in writing;
 - (b) The commissioner of the Department of Corrections or his or her designee in writing;
 - (c) The deputy commissioner of the Office of Community Services and Facilities;
 - (d) The deputy commissioner of the Office of Adult Institutions;
 - (e) The~~{executive}~~ director of the ***Division of Parole and Victim Services***~~{Parole Board}~~ or his or her designee in writing;
 - (f) The executive director of the Office of Legislative and Intergovernmental Services of the Justice and Public Safety Cabinet or his or her designee in writing;
 - (g) Two (2) Circuit Court Judges appointed by the Chief Justice;
 - (h) A county judge/executive appointed by the Governor;
 - (i) A county jailer appointed by the Governor;
 - (j) A Commonwealth's attorney appointed by the Governor;
 - (k) A practicing attorney appointed by the Governor;
 - (l) A victim, as that term is defined in KRS 346.020, appointed by the Governor;
 - (m) Four (4) service providers from the field of mental health, substance abuse treatment, or vocational and educational training, appointed by the Governor;
 - (n) A public member who is qualified to express the views of organized labor, appointed by the Governor;
 - (o) A public member who is qualified to express the views of business and industry, appointed by the Governor;
 - (p) The public advocate or his or her designee in writing; and
 - (q) Three (3) at-large members appointed by the Governor.
- (2) The terms of those members appointed by the appointing authority shall be three (3) years. These members shall serve at the pleasure of the appointing authority and shall be eligible for reappointment. The appointed members may be removed for cause. All others serve during their terms of office. If there is a vacancy, the appointing authority shall immediately make an appointment effective for the unexpired term.
- (3) The chairperson of the commission shall be the secretary of justice and public safety. The commissioner of the Department of Corrections shall serve as the vice chairperson who shall preside and exercise the functions of the chairperson during absence or disability of the chairperson.

- (4) Regular meetings of the commission shall be held at least once every four (4) months at a place, day, and hour determined by the commission. Special meetings shall be held when needed as determined by the chairperson. If five (5) or more members of the commission request in writing that the chairperson call a special meeting, then the chairperson shall call a special meeting.
- (5) Members of the commission shall receive reimbursement for necessary expenses for attendance at official commission meetings or public hearings. The administrative functions of the commission shall be performed by a full-time employee of the department who is selected by the commissioner. All public members of the commission shall, in addition to expenses, receive twenty-five dollars (\$25) per day for attending each meeting.

➔Section 3. KRS 196.702 is amended to read as follows:

The commission shall:

- (1) Develop a statewide strategic plan for the development and implementation of goals and objectives, target populations, and program criteria for community corrections programs;
- (2) Conduct, in collaboration with community corrections boards, a statewide assessment of community corrections programs;
- (3) Award all grant moneys to community corrections programs;
- (4) Review community correction program plans and their implementation to ensure compliance with the statewide strategic plan, including the following goals:
 - (a) Effectiveness of community corrections programs in maintaining public safety;
 - (b) Reduction of local commitments to the department;
 - (c) Reduction in the rate of recidivism; and
 - (d) Reduction in revocations of probation and parole;
- (5) Provide technical assistance, support, and training to local boards;
- (6) Submit an annual report no later than September 1 of each year to the commissioner, the Governor, and the General Assembly which includes at least the following information:
 - (a) The status of the implementation of the statewide strategic plan;
 - (b) The effectiveness of community corrections programs in achieving the goals outlined in subsection (4) of this section; and
 - (c) An accounting of the distribution of grants and other funds;
- (7) Administer the provisions of KRS 196.700 to 196.735;
- (8) Advise the Governor and the commissioner concerning correctional policy and programs, including particularly the following:
 - (a) The need for, and the development of, new or specialized institutions, facilities, or programs;
 - (b) The need for, and the effectuation of, collaboration and liaison within the department, and between the department and community agencies and resources, including the bench and bar, in order to promote the readjustment and rehabilitation of offenders in institutions or under parole or probation supervision in the community; and
 - (c) The need for, and the development of, useful research in penology, correctional treatment, criminal law, or in the disciplines relevant thereto; and
- (9) Establish a Parole Board Nominating Committee which shall:
 - (a) Include five (5) ex officio members of the commission:
 1. The secretary of the Justice and Public Safety Cabinet, who shall serve as chairperson of the committee;
 2. The commissioner of the Department of Corrections, who shall serve as the vice chairperson of the committee;
 3. The ~~executive~~ director of the *Division of Parole and Victim Services* ~~Parole Board~~;

4. The deputy commissioner of the Office of Adult Institutions; and
 5. The deputy commissioner of the Office of Community Services and Facilities;
- (b) Include ten (10) other members of the commission:
1. Two (2) Circuit Judges;
 2. Two (2) service providers with backgrounds in mental health or education;
 3. A person representing the views of business and industry;
 4. A person representing the views of organized labor;
 5. A practicing attorney; and
 6. Three (3) at-large members;
- (c) Publicize vacancies and impending term expirations on the Parole Board in accordance with standards set forth in KRS 424.180;
- (d) Submit the names of three (3) candidates to the commission for every vacancy or expired term on the Parole Board;
- (e) Forward a statement of qualifications of each nominee to the commission along with the nomination. This statement shall identify the experience which meets the qualifications for Parole Board membership outlined in KRS 439.320(1); and
- (f) Maintain the statement of qualifications as a public record in accordance with KRS 61.870 to 61.884.

➔Section 4. KRS 439.320 is amended to read as follows:

- (1) The Governor shall appoint a Parole Board consisting of nine (9) full-time members to be confirmed by the Senate in accordance with KRS 11.160. The Governor shall make each appointment from a list of three (3) names given to him or her by the Kentucky State Corrections Commission. Each member appointed to the board shall have had at least five (5) years of actual experience in the field of penology, correction work, law enforcement, sociology, law, education, social work, medicine, or a combination thereof, or have served at least five (5) years previously on the Parole Board. No more than six (6) board members shall be of the same political party. The board shall be attached to the Justice and Public Safety Cabinet for administrative purposes only. The Department of Corrections shall provide any clerical, stenographic, administrative, and expert staff assistance the board deems necessary to carry out its duties.
- (2) The Governor shall designate one (1) member as chairperson of the board. The member designated as chairperson shall serve in that capacity at the pleasure of the Governor or until his or her term expires.
- (3) The members of the board shall give full time to the duties of their office and shall receive necessary traveling expenses and a salary to be determined pursuant to KRS 64.640(2), except the chairperson of the board shall receive additional compensation of one thousand dollars (\$1,000) per year for his or her services. Their terms of office shall be four (4) years and until their successors are appointed and have qualified. Their successors shall be appointed thereafter as provided in this section for terms of four (4) years, and a vacancy occurring before expiration of the term of office shall be similarly filled for the unexpired term.
- (4) The organization of the board shall be determined by the chairperson and shall be consistent with administrative regulations promulgated pursuant to KRS 439.340. For policy and procedural matters, five (5) members shall constitute a quorum. Parole and final parole revocation hearings may be done by panels of the board, subject to the following requirements:
 - (a) If a two (2) member panel is utilized, both members of the panel shall agree on the decision or the matter shall be referred to the full board;
 - (b) If a three (3) member panel is utilized, two (2) of the three (3) members of the panel shall agree on a decision or the matter shall be referred to the full board; and
 - (c) If a panel of four (4) or more members is utilized, a majority of the panel shall agree on a decision or the matter shall be referred to the full board.
- (5) The Governor may not remove any member of the board except for disability, inefficiency, neglect of duty, or malfeasance in office. Before removal, he or she shall give the member a written copy of the charges against him or her and shall fix the time when he or she can be heard in his or her defense, which shall not be less than

ten (10) days thereafter. Upon removal, the Governor shall file in the office of the Secretary of State a complete statement of all charges made against the member and the findings thereupon with a record of the proceedings.

~~{(6) The Office of Executive Director of the Parole Board is created. The office shall be headed by an executive director who shall be appointed by and directly responsible to the secretary of the Justice and Public Safety Cabinet in matters relating to administration. The executive director shall be responsible for the support services to the Parole Board in the area of financial, personnel, and facilities management; shall provide recommendations on administrative issues affecting the board to the secretary of the Justice and Public Safety Cabinet, the chairperson of the Parole Board, and Parole Board members; shall review and draft legislation and promulgate administrative regulations for the board; and shall review parole data and conduct long range planning as relevant to the planning needs of the board.}~~

➔Section 5. KRS 317.420 is amended to read as follows:

- (1) No person shall engage in the practice of "barbering" for other than cosmetic purposes nor shall any person engage in barbering for the treatment of physical or mental ailments, except that the provisions of this chapter shall not apply to:
 - (a) Persons authorized by the law of this state to practice medicine, chiropody, optometry, dentistry, chiropractic, nursing, or embalming when incidental practices of barbering are performed by them in the normal course of the practice of their profession;
 - (b) Commissioned medical or surgical personnel of the United States Army, Navy, Air Force, or Marine Hospital Service performing incidental practices of barbering in the course of their duties; or
 - (c) Barbering services performed at an institution operated by or under contract to the Department of Corrections *or the Department of Juvenile Justice*.
- (2) Except as provided in subsection (1) of this section, no person shall engage in the practice of barbering for the public generally or for consideration without the appropriate license required by this chapter.
- (3) No person, unless duly and properly licensed pursuant to this chapter, shall:
 - (a) Teach barbering;
 - (b) Operate a barber shop;
 - (c) Engage in a barber apprenticeship;
 - (d) Conduct or operate a school for barbers; or
 - (e) Lease or rent booth space as an independent contract owner.
- (4) No person shall aid or abet any person in violating the provisions of this section, nor shall any person engage or employ for consideration any person for the performance of any practice licensed by this chapter unless the person to perform such practice holds and displays the appropriate license therefor.
- (5) Except as provided in this chapter, no person or business shall:
 - (a) Advertise barbering services, unless the person or business and the personnel it employs are licensed under this chapter; or
 - (b) Use or display a barber pole for the purpose of advertising barbering services to the public unless it:
 1. Has a barber shop license; and
 2. Employs a barber licensed under this chapter.

➔Section 6. KRS 317A.020 is amended to read as follows:

- (1) No person shall engage in the practice of cosmetology or nail technology for other than cosmetic purposes nor shall any person engage in the practice of cosmetology or nail technology for the treatment of physical or mental ailments. The provisions of this chapter do not apply to:
 - (a) Persons authorized by the law of this state to practice medicine, podiatry, optometry, dentistry, chiropractic, nursing, or embalming who perform incidental practices of cosmetology and nail technology in the normal course of the practice of their profession; ~~{and}~~

- (b) Commissioned medical or surgical personnel of the United States Army, Navy, Air Force, or Marine Hospital Service who perform incidental practices of cosmetology or nail technology in the course of their duties; *and*
 - (c) *Cosmetology or nail technology services performed at an institution operated or under contract to the Department of Corrections or the Department of Juvenile Justice.*
- (2) Except as provided in subsection (1) of this section, no person shall engage in the practice of cosmetology or nail technology for the public, generally, or for consideration without the appropriate license required by this chapter.
 - (3) No person unless duly and properly licensed pursuant to this chapter shall:
 - (a) Teach cosmetology or nail technology;
 - (b) Operate a beauty salon;
 - (c) Engage in a cosmetology apprenticeship;
 - (d) Operate a nail salon;
 - (e) Act as a nail technician; or
 - (f) Conduct or operate a school for cosmetologists or nail technicians.
 - (4) No person shall aid or abet any person in violating the provisions of this section, nor shall any person engage or employ for consideration any person to perform any practice licensed by this chapter unless the person to perform the practice holds and displays the appropriate license.
 - (5) No licensed cosmetology instructors, licensed cosmetologists, or licensed nail technicians shall hold clinics for teaching or demonstrating for personal profit, either monetary or otherwise, if the clinics are not sponsored by a recognized professional hairdresser's, cosmetologist's, or nail technician's group.
 - (6) Whenever a person engages in different practices separately licensed, certified, or permitted by the provisions of this chapter, that person shall procure a separate license, certificate, or permit for each of the practices in which the person engages.

➔SECTION 7. KRS 439.562 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

- (1) *To oversee the intrastate affairs of the Interstate Compact for Adult Offender Supervision, the Kentucky Council for Interstate Adult Offender Supervision is created and attached to the Office of the Secretary of the Justice and Public Safety Cabinet for administrative purposes.*
- (2) *The membership of the council shall consist of:*
 - (a) *The commissioner of the Department of Corrections, ex officio;*
 - (b) *The compact administrator of the Department of Corrections, ex officio;*
 - (c) *The deputy commissioner of the Office of Community Services and Facilities, ex officio;*
 - (d) *One (1) member of the House of Representatives selected by the Speaker of the House of Representatives and appointed by the Governor;*
 - (e) *One (1) member of the Senate selected by the President of the Senate and appointed by the Governor;*
 - (f) *Two (2) members of the judiciary selected by the Chief Justice of the Kentucky Supreme Court and appointed by the Governor; and*
 - (g) *Six (6) at-large members, appointed by the Governor, representing victim groups and other community interest groups.*
- (3) *Of the initial members, except those serving ex officio, three (3) members shall be appointed to serve terms of four (4) years, three (3) members shall be appointed to terms of three (3) years, three (3) members shall be appointed to terms of two (2) years, and one (1) member shall be appointed to a term of one (1) year. Thereafter, members shall be appointed to terms of four (4) years or until their successors have been duly appointed and qualified. Members may be reappointed and vacancies shall be immediately filled, in like manner, for the unexpired term.*
- (4) *The Kentucky Council for Interstate Adult Offender Supervision shall meet at least annually, at the call of the chair, and shall:*

- (a) *Advocate when seeking resources;*
 - (b) *Provide recommendations regarding operational improvements;*
 - (c) *Provide recommendations regarding dispute resolution;*
 - (d) *Provide recommendations regarding training needs;*
 - (e) *Provide recommendations regarding policy changes; and*
 - (f) *Serve as a support mechanism for the Kentucky Compact Office.*
- (5) *The Governor shall designate one (1) member of the council as chairperson and one (1) member as vice chairperson, and a member so designated shall serve in that capacity at the pleasure of the Governor or until his or her term expires.*
- (6) *Members of the council shall serve without compensation but shall be reimbursed for expenses actually and necessarily incurred in the performance of their duties, subject to Finance and Administration Cabinet administrative regulations.*
- (7) *Except as otherwise provided in this section, the Department of Corrections may promulgate administrative regulations necessary to administer the Interstate Compact for Adult Offender Supervision.*

➔Section 8. KRS 15.315 is amended to read as follows:

The Kentucky Law Enforcement Council is hereby established as an independent administrative body of state government to be made up as follows:

- (1) The Attorney General of Kentucky, the commissioner of the Department of Kentucky State Police, *the commissioner of the Department of Criminal Justice Training, the Chief of Police of the Louisville Metro Police Department, the Chief of Police of the Lexington-Fayette Urban County Division of Police, the director*~~directors~~ of the Southern Police Institute of the University of Louisville, the dean of the College of Justice and Safety of Eastern Kentucky University, the president of the Kentucky Peace Officers Association, the president of the Kentucky Association of Chiefs of Police, the Kentucky president of the Fraternal Order of Police, and the president of the Kentucky Sheriffs' Association shall be ex officio members of the council, as full voting members of the council by reason of their office. The United States attorneys for the Eastern and Western Districts of Kentucky may confer and designate a local law enforcement liaison who shall serve on the council in an advisory capacity only without voting privileges. Each ex officio member may designate in writing a person to represent him or her and to vote on his or her behalf. *Designees of the Department of Kentucky State Police, Department of Criminal Justice Training, Louisville Metro Police Department, and the Lexington-Fayette Urban County Division of Police shall be the head of the agency's training division or the agency's deputy chief or deputy commissioner.*
- (2) Twelve (12) members shall be appointed by the Governor for terms of four (4) years from the following classifications: a city manager or mayor, a county judge/executive, three (3) Kentucky sheriffs, a member of the Kentucky State Bar Association, five (5) chiefs of police, and a citizen of Kentucky not coming within the foregoing classifications. No person shall serve beyond the time he or she holds the office or employment by reason of which he or she was initially eligible for appointment. Vacancies shall be filled in the same manner as the original appointment and the successor shall be appointed for the unexpired term. Any member may be appointed for additional terms.
- (3) No member may serve on the council with the dual membership as the representative of more than one (1) of the aforementioned groups or the holder of more than one (1) of the aforementioned positions. In the event that an existing member of the council assumes a position entitling him to serve on the council in another capacity, the Governor shall appoint an additional member from the group concerned to prevent dual membership.
- (4) Membership on the council does not constitute a public office, and no member shall be disqualified from holding public office by reason of his membership.

➔Section 9. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected

officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
4. Department of Law.
 - (a) Attorney General.
5. Department of the Treasury.
 - (a) Treasurer.
6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

1. Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Office of Drug Control Policy.
 - (g) Office of Legal Services.
 - (h) Office of the Kentucky State Medical Examiner.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Office of Legislative and Intergovernmental Services.
 - (l) Office of Management and Administrative Services.
 - (m) ~~Office of Investigations.~~
 - ~~(n)~~ Department for Public Advocacy.
2. Education and Workforce Development Cabinet:
 - (a) Office of the Secretary.
 1. Governor's Scholars Program.
 - (b) Office of Legal and Legislative Services.
 1. Client Assistance Program.
 - (c) Office of Communication.

- (d) Office of Budget and Administration.
 - 1. Division of Human Resources.
 - 2. Division of Administrative Services.
 - 3. Division of Technology Services.
 - (e) Office of Educational Programs.
 - (f) Board of Directors for the Center for School Safety.
 - (g) Council on Postsecondary Education.
 - 1. Foundation for Adult Education.
 - (h) Department of Education.
 - 1. Kentucky Board of Education.
 - (i) Department for Libraries and Archives.
 - (j) Department of Workforce Investment.
 - 1. Office for the Blind.
 - 2. Office of Vocational Rehabilitation.
 - 3. Office of Career and Technical Education.
 - 4. Office of Employment and Training.
 - (k) Foundation for Workforce Development.
 - (l) Kentucky Office for the Blind State Rehabilitation Council.
 - (m) Kentucky Technical Education Personnel Board.
 - (n) Kentucky Workforce Investment Board.
 - (o) Statewide Council for Vocational Rehabilitation.
 - (p) Statewide Independent Living Council.
 - (q) Unemployment Insurance Commission.
 - (r) Education Professional Standards Board.
 - 1. Division of Educator Preparation.
 - 2. Division of Certification.
 - 3. Division of Professional Learning and Assessment.
 - 4. Division of Legal Services.
 - (s) Kentucky Commission on the Deaf and Hard of Hearing.
 - (t) Kentucky Educational Television.
 - (u) Kentucky Environmental Education Council.
3. Energy and Environment Cabinet:
- (a) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.
 - 2. Office of General Counsel.
 - a. Environmental Protection Legal Division.
 - 3. Office of Administrative Hearings.
 - 4. Mine Safety Review Commission.
 - 5. Kentucky State Nature Preserves Commission.

6. Kentucky Environmental Quality Commission.
7. Kentucky Public Service Commission.
- (b) Department for Environmental Protection.
 1. Office of the Commissioner.
 2. Division for Air Quality.
 3. Division of Water.
 4. Division of Environmental Program Support.
 5. Division of Waste Management.
 6. Division of Enforcement.
 7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
 1. Office of the Commissioner.
 2. Division of Technical and Administrative Support.
 3. Division of Mine Permits.
 4. Division of Mine Reclamation and Enforcement.
 5. Division of Abandoned Mine Lands.
 6. Division of Oil and Gas.
 7. Office of Mine Safety and Licensing.
 8. Division of Forestry.
 9. Division of Conservation.
- (d) Department for Energy Development and Independence.
 1. Division of Efficiency and Conservation.
 2. Division of Renewable Energy.
 3. Division of Biofuels.
 4. Division of Energy Generation Transmission and Distribution.
 5. Division of Carbon Management.
 6. Division of Fossil Energy Development.
4. Public Protection Cabinet.
 - (a) Office of the Secretary.
 1. Office of Communications and Public Outreach.
 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
 - (b) Crime Victims Compensation Board.
 - (c) Board of Claims.
 - (d) Kentucky Board of Tax Appeals.

- (e) Kentucky Boxing and Wrestling Authority.
 - (f) Kentucky Horse Racing Commission.
 - 1. Division of Licensing.
 - 2. Division of Incentives and Development.
 - 3. Division of Veterinary Services.
 - 4. Division of Security and Enforcement.
 - (g) Department of Alcoholic Beverage Control.
 - 1. Division of Distilled Spirits.
 - 2. Division of Malt Beverages.
 - 3. Division of Enforcement.
 - (h) Department of Charitable Gaming.
 - 1. Division of Licensing and Compliance.
 - 2. Division of Enforcement.
 - (i) Department of Financial Institutions.
 - 1. Division of Depository Institutions.
 - 2. Division of Non-Depository Institutions.
 - 3. Division of Securities.
 - (j) Department of Housing, Buildings and Construction.
 - 1. Division of Fire Prevention.
 - 2. Division of Plumbing.
 - 3. Division of Heating, Ventilation, and Air Conditioning.
 - 4. Division of Building Code Enforcement.
 - (k) Department of Insurance.
 - 1. Property and Casualty Division.
 - 2. Health and Life Division.
 - 3. Division of Financial Standards and Examination.
 - 4. Division of Agent Licensing.
 - 5. Division of Insurance Fraud Investigation.
 - 6. Consumer Protection Division.
 - 7. Division of Kentucky Access.
 - (l) Office of Occupations and Professions.
5. Labor Cabinet.
- (a) Office of the Secretary.
 - 1. Division of Management Services.
 - 2. Office of General Counsel.
 - (b) Office of General Administration and Program Support for Shared Services.
 - 1. Division of Human Resource Management.
 - 2. Division of Fiscal Management.
 - 3. Division of Budgets.

4. Division of Information Services.
 - (c) Office of Inspector General for Shared Services.
 - (d) Department of Workplace Standards.
 1. Division of Employment Standards, Apprenticeship, and Mediation.
 2. Division of Occupational Safety and Health Compliance.
 3. Division of Occupational Safety and Health Education and Training.
 4. Division of Workers' Compensation Funds.
 - (e) Department of Workers' Claims.
 1. Office of General Counsel for Workers' Claims.
 2. Office of Administrative Law Judges.
 3. Division of Claims Processing.
 4. Division of Security and Compliance.
 5. Division of Information and Research.
 6. Division of Ombudsman and Workers' Compensation Specialist Services.
 7. Workers' Compensation Board.
 8. Workers' Compensation Advisory Council.
 9. Workers' Compensation Nominating Commission.
 - (f) Workers' Compensation Funding Commission.
 - (g) Kentucky Labor-Management Advisory Council.
 - (h) Occupational Safety and Health Standards Board.
 - (i) Prevailing Wage Review Board.
 - (j) Apprenticeship and Training Council.
 - (k) State Labor Relations Board.
 - (l) Employers' Mutual Insurance Authority.
 - (m) Kentucky Occupational Safety and Health Review Commission.
6. Transportation Cabinet:
- (a) Department of Highways.
 1. Office of Project Development.
 2. Office of Project Delivery and Preservation.
 3. Office of Highway Safety.
 4. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Aviation.
 - (d) Department of Rural and Municipal Aid.
 1. Office of Local Programs.
 2. Office of Rural and Secondary Roads.
 - (e) Office of the Secretary.
 1. Office of Public Affairs.
 2. Office for Civil Rights and Small Business Development.

3. Office of Budget and Fiscal Management.
 4. Office of Inspector General.
 - (f) Office of Support Services.
 - (g) Office of Transportation Delivery.
 - (h) Office of Audits.
 - (i) Office of Human Resource Management.
 - (j) Office of Information Technology.
 - (k) Office of Legal Services.
7. Cabinet for Economic Development:
- (a) Office of Administration and Support.
 - (b) Department for New Business Development.
 - (c) Department of Financial Incentives.
 - (d) Department for Existing Business Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
 - (g) Office of Research and Information Technology.
 - (h) Department of Commercialization and Innovation.
 - (i) Office of Legal Services.
 - (j) Commission on Small Business Advocacy.
8. Cabinet for Health and Family Services:
- (a) Office of the Secretary.
 - (b) Office of Health Policy.
 - (c) Office of Legal Services.
 - (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.
 - (g) Office of Policy and Budget.
 - (h) Office of Human Resource Management.
 - (i) Office of Administrative and Technology Services.
 - (j) Department for Public Health.
 - (k) Department for Medicaid Services.
 - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
 - (m) Department for Aging and Independent Living.
 - (n) Department for Community Based Services.
 - (o) Department for Income Support.
 - (p) Department for Family Resource Centers and Volunteer Services.
 - (q) Kentucky Commission on Community Volunteerism and Service.
 - (r) Kentucky Commission for Children with Special Health Care Needs.
 - (s) Governor's Office of Electronic Health Information.

9. Finance and Administration Cabinet:
 - (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Office of Policy and Audit.
 - (f) Department for Facilities and Support Services.
 - (g) Department of Revenue.
 - (h) Commonwealth Office of Technology.
 - (i) State Property and Buildings Commission.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - (k) Kentucky Employees Retirement Systems.
 - (l) Commonwealth Credit Union.
 - (m) State Investment Commission.
 - (n) Kentucky Housing Corporation.
 - (o) Kentucky Local Correctional Facilities Construction Authority.
 - (p) Kentucky Turnpike Authority.
 - (q) Historic Properties Advisory Commission.
 - (r) Kentucky Tobacco Settlement Trust Corporation.
 - (s) Kentucky Higher Education Assistance Authority.
 - (t) Kentucky River Authority.
 - (u) Kentucky Teachers' Retirement System Board of Trustees.
 - (v) Executive Branch Ethics Commission.
10. Tourism, Arts and Heritage Cabinet:
 - (a) Kentucky Department of Travel and Tourism.
 - (1) Division of Tourism Services.
 - (2) Division of Marketing and Administration.
 - (3) Division of Communications and Promotions.
 - (b) Kentucky Department of Parks.
 - (1) Division of Information Technology.
 - (2) Division of Human Resources.
 - (3) Division of Financial Operations.
 - (4) Division of Facilities Management.
 - (5) Division of Facilities Maintenance.
 - (6) Division of Customer Services.
 - (7) Division of Recreation.
 - (8) Division of Golf Courses.
 - (9) Division of Food Services.
 - (10) Division of Rangers.

- (11) Division of Resort Parks.
- (12) Division of Recreational Parks and Historic Sites.
- (c) Department of Fish and Wildlife Resources.
 - (1) Division of Law Enforcement.
 - (2) Division of Administrative Services.
 - (3) Division of Engineering.
 - (4) Division of Fisheries.
 - (5) Division of Information and Education.
 - (6) Division of Wildlife.
 - (7) Division of Public Affairs.
- (d) Kentucky Horse Park.
 - (1) Division of Support Services.
 - (2) Division of Buildings and Grounds.
 - (3) Division of Operational Services.
- (e) Kentucky State Fair Board.
 - (1) Office of Administrative and Information Technology Services.
 - (2) Office of Human Resources and Access Control.
 - (3) Division of Expositions.
 - (4) Division of Kentucky Exposition Center Operations.
 - (5) Division of Kentucky International Convention Center.
 - (6) Division of Public Relations and Media.
 - (7) Division of Venue Services.
 - (8) Division of Personnel Management and Staff Development.
 - (9) Division of Sales.
 - (10) Division of Security and Traffic Control.
 - (11) Division of Information Technology.
 - (12) Division of the Louisville Arena.
 - (13) Division of Fiscal and Contract Management.
 - (14) Division of Access Control.
- (f) Office of the Secretary.
 - (1) Office of Finance.
 - (2) Office of Research and Administration.
 - (3) Office of Governmental Relations and Tourism Development.
 - (4) Office of the Sports Authority.
 - (5) Kentucky Sports Authority.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.

- (k) Office of Capital Plaza Operations.
 - (l) Office of Arts and Cultural Heritage.
 - (m) Kentucky African-American Heritage Commission.
 - (n) Kentucky Foundation for the Arts.
 - (o) Kentucky Humanities Council.
 - (p) Kentucky Heritage Council.
 - (q) Kentucky Arts Council.
 - (r) Kentucky Historical Society.
 - (1) Division of Museums.
 - (2) Division of Oral History and Educational Outreach.
 - (3) Division of Research and Publications.
 - (4) Division of Administration.
 - (s) Kentucky Center for the Arts.
 - (1) Division of Governor's School for the Arts.
 - (t) Kentucky Artisans Center at Berea.
 - (u) Northern Kentucky Convention Center.
 - (v) Eastern Kentucky Exposition Center.
11. Personnel Cabinet:
- (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Governmental Services Center.
 - (h) Department of Employee Insurance.
 - (i) Office of Diversity and Equality.
 - (j) Center of Strategic Innovation.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.
2. Department for Local Government.
3. Kentucky Commission on Human Rights.
4. Kentucky Commission on Women.
5. Department of Veterans' Affairs.
6. Kentucky Commission on Military Affairs.
7. Office of Minority Empowerment.
8. Governor's Council on Wellness and Physical Activity.

➔Section 10. KRS 15A.020 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet shall have the following departments:

- (a) Department of Corrections;
 - (b) Department of Criminal Justice Training, which shall have the following divisions:
 - 1. Training Operations Division;
 - 2. Administrative Division; and
 - 3. Training Support Division;
 - (c) Department of Juvenile Justice, which shall have the following divisions:
 - 1. Division of Medical Services;
 - 2. Division of Western Region;
 - 3. Division of Central Region;
 - 4. Division of Eastern Region;
 - 5. Division of Southeastern Region;
 - 6. Division of Administrative Services;
 - 7. Division of Program Services;
 - 8. Division of Placement Services;
 - 9. Division of Professional Development; and
 - 10. Division of Community and Mental Health Services;
 - (d) Department of Kentucky State Police, which shall have the following divisions:
 - 1. Administrative Division;
 - 2. Operations Division;
 - 3. Technical Services Division; and
 - 4. Commercial Vehicle Enforcement Division; and
 - (e) Department for Public Advocacy, which shall have the following divisions:
 - 1. Protection and Advocacy Division;
 - 2. Division of Law Operations;
 - 3. Division of Trial Services;
 - 4. Division of Post-Trial Services; and
 - 5. Division of Conflict Services.
- (2) Each department, except for the Department for Public Advocacy, shall be headed by a commissioner who shall be appointed by the secretary of justice and public safety with the approval of the Governor as required by KRS 12.040. Each commissioner shall be directly responsible to the secretary and shall have such functions, powers, and duties as provided by law and as the secretary may prescribe. The Department for Public Advocacy shall be headed by the public advocate, appointed as required by KRS 31.020, who shall be directly responsible to the Public Advocacy Commission. The Department for Public Advocacy is an independent state agency which shall be attached to the Justice and Public Safety Cabinet for administrative purposes only. The Justice and Public Safety Cabinet shall not have control over the Department for Public Advocacy's information technology equipment and use unless granted access by court order.
- (3) The Justice and Public Safety Cabinet shall have the following offices:
- (a) Office of the Secretary, which shall be headed by a deputy secretary appointed pursuant to KRS 12.050 and responsible for the direct administrative support for the secretary and other duties as assigned by the secretary, and which, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
 - (b) Office of Management and Administrative Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible to and report to the secretary and be responsible for all matters relating to human resources, state and federal grants management, including

but not limited to the administration of KRS 15A.060, fiscal functions, management and daily operations of the information processing activities for the cabinet, and management and daily administrative services for the cabinet; and who, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;

- (c) Office of Legal Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 and 12.210, ~~that: {to}~~
1. *Shall* provide legal representation and services for the cabinet; *and*
 2. *May investigate all complaints regarding the facilities, staff, treatment of juveniles, and other matters relating to the operation of the Justice and Public Safety Cabinet. If it appears that there is a violation of statutes, administrative regulations, policies, court decisions, the rights of juveniles who are subject to the orders of the department, or any other matter relating to the Justice and Public Safety Cabinet, the office shall report to the secretary of the Justice and Public Safety Cabinet who shall, if required, refer the matter to a law enforcement agency, Commonwealth's attorney, county attorney, the Attorney General, or federal agencies, as appropriate. The office may be used to investigate matters in which there is a suspicion of violation of written policy, administrative regulation, or statutory law within the Department for Public Advocacy only when the investigation will have no prejudicial impact upon a person who has an existing attorney-client relationship with the Department for Public Advocacy. Notwithstanding the provisions of this subparagraph, investigation and discipline of KRS Chapter 16 personnel shall continue to be conducted by the Department of Kentucky State Police pursuant to KRS Chapter 16. The office shall conduct no other investigations under the authority granted in this paragraph. The secretary may, by administrative order, assign the investigative functions herein to a branch within the office.*

The executive director shall be directly responsible to and report to the secretary and, with the approval of the secretary, may employ such attorneys appointed pursuant to KRS 12.210 and other staff as necessary to perform the duties, functions, and responsibilities of the office;

- (d) Office of Legislative and Intergovernmental Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible for all matters relating to the provision of support to the Criminal Justice Council, legislative liaison services, and functions and duties vested in the Criminal Justice Council as described in KRS 15A.030. The executive director shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
- (e) Office of the Kentucky State Medical Examiner, which shall be headed by a chief medical examiner appointed pursuant to KRS 72.240 who shall be responsible for all matters relating to forensic pathology and forensic toxicology and other duties as assigned by the secretary. The executive director appointed pursuant to KRS 12.050 shall be responsible for all matters related to the administrative support of the Office of the State Medical Examiner. The executive director shall report directly to the secretary and with the approval of the secretary may employ such administrative support staff as necessary to perform the administrative duties, functions, and responsibilities of the office. The chief medical examiner shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the forensic duties, functions, and responsibilities of the office; *and*
- (f) Office of Drug Control Policy, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible for all matters relating to the research, coordination, and execution of drug control policy and for the management of state and federal grants, including but not limited to the prevention and treatment related to substance abuse. By December 31 of each year, the Office of Drug Control Policy shall review, approve, and coordinate all current projects of any substance abuse program which is conducted by or receives funding through agencies of the executive branch. This oversight shall extend to all substance abuse programs which are principally related to the prevention or treatment, or otherwise targeted at the reduction, of substance abuse in the Commonwealth. The Office of Drug Control Policy shall promulgate administrative regulations consistent with enforcing this oversight authority. The executive director shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the duties, functions, and responsibilities of the office; ~~and~~
- ~~(g) Office of Investigations, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible for investigating all complaints regarding the facilities, staff, treatment~~

~~of juveniles, and other matters relating to the operation of the Justice and Public Safety Cabinet. If it appears that there is a violation of statutes, administrative regulations, policies, court decisions, the rights of juveniles who are subject to the orders of the department, or any other matter relating to the Justice and Public Safety Cabinet, the office shall report to the secretary of the Justice and Public Safety Cabinet who shall, if required, refer the matter to a law enforcement agency, Commonwealth's attorney, county attorney, the Attorney General, or federal agencies, as appropriate. The executive director shall be directly responsible to and report to the secretary and, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office. The Office of Investigations may be used to investigate matters in which there is a suspicion of violation of written policy, administrative regulation, or statutory law within the Department for Public Advocacy only when such investigation will have no prejudicial impact upon a person who has an existing attorney client relationship with the Department for Public Advocacy. Notwithstanding the provisions of this paragraph, investigation and discipline of KRS Chapter 16 personnel shall continue to be conducted by the Department of Kentucky State Police pursuant to KRS Chapter 16. The Office of Investigations shall conduct no other investigations.]~~

➔Section 11. Notwithstanding KRS 12.028, the General Assembly confirms Executive Order 2012-560, dated July 6, 2012 to the extent it is not otherwise confirmed or superseded by this Act.

Signed by Governor March 21, 2013.

CHAPTER 73

(SB 150)

AN ACT relating to concealed deadly weapons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 237.110 is amended to read as follows:

- (1) The Department of Kentucky State Police is authorized to issue and renew licenses to carry concealed firearms or other deadly weapons, or a combination thereof, to persons qualified as provided in this section.
- (2) An original or renewal license issued pursuant to this section shall:
 - (a) Be valid throughout the Commonwealth and, except as provided in this section or other specific section of the Kentucky Revised Statutes or federal law, permit the holder of the license to carry firearms, ammunition, or other deadly weapons, or a combination thereof, at any location in the Commonwealth;
 - (b) Unless revoked as provided by law, be valid for a period of five (5) years from the date of issuance;
 - (c) Authorize the holder of the license to carry a concealed firearm or other deadly weapon, or a combination thereof, on or about his or her person; and
 - (d) Authorize the holder of the license to carry ammunition for a firearm on or about his or her person.
- (3) Prior to the issuance of an original or renewal license to carry a concealed deadly weapon, the Department of Kentucky State Police shall conduct a background check to ascertain whether the applicant is eligible under 18 U.S.C. sec. 922(g) and (n), any other applicable federal law, and state law to purchase, receive, or possess a firearm or ammunition, or both. The background check shall include:
 - (a) A state records check covering the items specified in this subsection, together with any other requirements of this section;
 - (b) A federal records check, which shall include a National Instant Criminal Background Check System (NICS) check;
 - (c) A federal Immigration Alien Query if the person is an alien who has been lawfully admitted to the United States by the United States government or an agency thereof; and
 - (d) In addition to the Immigration Alien Query, if the applicant has not been lawfully admitted to the United States under permanent resident status, the Department of Kentucky State Police shall, if a doubt

exists relating to an alien's eligibility to purchase a firearm, consult with the United States Department of Homeland Security, United States Department of Justice, United States Department of State, or other federal agency to confirm whether the alien is eligible to purchase a firearm in the United States, bring a firearm into the United States, or possess a firearm in the United States under federal law.

- (4) The Department of Kentucky State Police shall issue an original or renewal license if the applicant:
- (a) Is not prohibited from the purchase, receipt, or possession of firearms, ammunition, or both pursuant to 18 U.S.C. 922(g), 18 U.S.C. 922(n), or applicable federal or state law;
 - (b)
 1. Is a citizen of the United States who is a resident of this Commonwealth ~~and has been a resident for six (6) months or longer immediately preceding the filing of the application~~;
 2. Is a citizen of the United States who is a member of the Armed Forces of the United States who is on active duty, who is at the time of application assigned to a military posting in Kentucky ~~and who has been assigned to a posting in the Commonwealth for six (6) months or longer immediately preceding the filing of the application~~;
 3. Is lawfully admitted to the United States by the United States government or an agency thereof, is permitted by federal law to purchase a firearm ~~and has been a resident of this Commonwealth for six (6) months or longer immediately preceding the filing of the application~~; or
 4. Is lawfully admitted to the United States by the United States government or an agency thereof, is permitted by federal law to purchase a firearm, is, at the time of the application, assigned to a military posting in Kentucky, and has been assigned to a posting in the Commonwealth ~~for six (6) months or longer immediately preceding the filing of the application~~;
 - (c) Is twenty-one (21) years of age or older;
 - (d) Has not been committed to a state or federal facility for the abuse of a controlled substance or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating to controlled substances, within a three (3) year period immediately preceding the date on which the application is submitted;
 - (e) Does not chronically and habitually use alcoholic beverages as evidenced by the applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) years immediately preceding the date on which the application is submitted, or having been committed as an alcoholic pursuant to KRS Chapter 222 or similar laws of another state within the three (3) year period immediately preceding the date on which the application is submitted;
 - (f) Does not owe a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment, if the Department of Kentucky State Police has been notified of the arrearage by the Cabinet for Health and Family Services;
 - (g) Has complied with any subpoena or warrant relating to child support or paternity proceedings. If the Department of Kentucky State Police has not been notified by the Cabinet for Health and Family Services that the applicant has failed to meet this requirement, the Department of Kentucky State Police shall assume that paternity and child support proceedings are not an issue;
 - (h) Has not been convicted of a violation of KRS 508.030 or 508.080 within the three (3) years immediately preceding the date on which the application is submitted. The commissioner of the Department of Kentucky State Police may waive this requirement upon good cause shown and a determination that the applicant is not a danger and that a waiver would not violate federal law; and
 - (i) Demonstrates competence with a firearm by successful completion of a firearms safety course offered or approved by the Department of Criminal Justice Training. The firearms safety course shall:
 1. Be not more than eight (8) hours in length;
 2. Include instruction on handguns, the safe use of handguns, the care and cleaning of handguns, and handgun marksmanship principles;
 3. Include actual range firing of a handgun in a safe manner, and the firing of not more than twenty (20) rounds at a full-size silhouette target, during which firing, not less than eleven (11) rounds must hit the silhouette portion of the target; and

4. Include information on and a copy of laws relating to possession and carrying of firearms, as set forth in KRS Chapters 237 and 527, and the laws relating to the use of force, as set forth in KRS Chapter 503.
- (5) A legible photocopy of the certificate of completion issued by the Department of Criminal Justice Training shall constitute evidence of qualification under subsection (4)(i) of this section.
- (6)
 - (a) Peace officers who are currently certified as peace officers by the Kentucky Law Enforcement Council pursuant to KRS 15.380 to 15.404 and peace officers who are retired and are members of the Kentucky Employees Retirement System, State Police Retirement System, or County Employees Retirement System or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be deemed to have met the training requirement.
 - (b) Current and retired peace officers of the following federal agencies shall be deemed to have met the training requirement:
 1. Any peace officer employed by a federal agency specified in KRS 61.365;
 2. Any peace officer employed by a federal civilian law enforcement agency not specified above who has successfully completed the basic law enforcement training course required by that agency;
 3. Any military peace officer of the United States Army, Navy, Marine Corps, or Air Force, or a reserve component thereof, or of the Army Reserve or Air Force Reserve who has successfully completed the military law enforcement training course required by that branch of the military; and
 4. Any member of the United States Coast Guard serving in a peace officer role who has successfully completed the law enforcement training course specified by the United States Coast Guard.
- (7) The application for a license, or renewal of a license, to carry a concealed deadly weapon shall be obtained from the office of the sheriff in the county in which the person resides. The completed application and all accompanying material plus an application fee or renewal fee, as appropriate, of sixty dollars (\$60) shall be presented to the office of the sheriff of the county in which the applicant resides. A full-time or part-time peace officer who is currently certified as a peace officer by the Kentucky Law Enforcement Council who is authorized by his or her employer or government authority to carry a concealed deadly weapon at all times and all locations within the Commonwealth pursuant to KRS 527.020 or a retired peace officer who is a member of the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be exempt from paying the application or renewal fees. The sheriff shall transmit the application and accompanying material to the Department of Kentucky State Police within five (5) working days. Twenty dollars (\$20) of the application fee shall be retained by the office of the sheriff for official expenses of the office. Twenty dollars (\$20) shall be sent to the Department of Kentucky State Police with the application. Ten dollars (\$10) shall be transmitted by the sheriff to the Administrative Office of the Courts to fund background checks for youth leaders, and ten dollars (\$10) shall be transmitted to the Administrative Office of the Courts to fund background checks for applicants for concealed weapons. The application shall be completed, under oath, on a form promulgated by the Department of Kentucky State Police by administrative regulation which shall only include:
 - (a)
 1. The name, address, place and date of birth, citizenship, gender, Social Security number of the applicant; and
 2. If not a citizen of the United States, alien registration number if applicable, passport number, visa number, mother's maiden name, and other information necessary to determine the immigration status and eligibility to purchase a firearm under federal law of a person who is not a citizen of the United States;
 - (b) A statement that, to the best of his or her knowledge, the applicant is in compliance with criteria contained within subsections (3) and (4) of this section;
 - (c) A statement that the applicant has been furnished a copy of this section and is knowledgeable about its provisions;

- (d) A statement that the applicant has been furnished a copy of, has read, and understands KRS Chapter 503 as it pertains to the use of deadly force for self-defense in Kentucky; and
 - (e) A conspicuous warning that the application is executed under oath and that a materially false answer to any question, or the submission of any materially false document by the applicant, subjects the applicant to criminal prosecution under KRS 523.030.
- (8) The applicant, if a resident of the Commonwealth, shall submit to the sheriff of the applicant's county of residence:
- (a) A completed application as described in subsection (7) of this section;
 - (b) A recent color photograph of the applicant, as prescribed by administrative regulation;
 - (c) A photocopy of a certificate or an affidavit or document as described in subsection (5) of this section; and
 - (d) For an applicant who is not a citizen of the United States and has been lawfully admitted to the United States by the United States government or an agency thereof, his or her United States government issued:
 - 1. Permanent Resident Card I-551 or its equivalent successor identification;
 - 2. Other United States government issued evidence of lawful admission to the United States which includes the category of admission, if admission has not been granted as a permanent resident; and
 - 3. Evidence of compliance with the provisions of 18 U.S.C. sec. 922(g)(5), 18 U.S.C. sec. 922(d)(5), or 18 U.S.C. sec. 922(y)(2), and 27 C.F.R. Part 178, including, as appropriate, but not limited to evidence of ninety (90) day residence in the Commonwealth, a valid current Kentucky hunting license if claiming exemption as a hunter, or other evidence of eligibility to purchase a firearm by an alien which is required by federal law or regulation.

If an applicant presents identification specified in this paragraph, the sheriff shall examine the identification, may record information from the identification presented, and shall return the identification to the applicant.

- (9) The Department of Kentucky State Police shall, within ~~sixty (60)~~~~[ninety (90)]~~ days after the date of receipt of the items listed in subsection (8) of this section *from the sheriff*, either:
- (a) Issue the license; or
 - (b) Deny the application based solely on the grounds that the applicant fails to qualify under the criteria listed in subsection (3) or (4) of this section. If the Department of Kentucky State Police denies the application, it shall notify the applicant in writing, stating the grounds for denial and informing the applicant of a right to submit, within thirty (30) days, any additional documentation relating to the grounds of denial. Upon receiving any additional documentation, the Department of Kentucky State Police shall reconsider its decision and inform the applicant within twenty (20) days of the result of the reconsideration. The applicant shall further be informed of the right to seek de novo review of the denial in the District Court of his or her place of residence within ninety (90) days from the date of the letter advising the applicant of the denial.
- (10) The Department of Kentucky State Police shall maintain an automated listing of license holders and pertinent information, and this information shall be available on-line, upon request, at all times to all Kentucky, federal, and other states' law enforcement agencies. A request for the entire list of licensees, or for all licensees in a geographic area, shall be denied. Only requests relating to a named licensee shall be honored or available on-line. Information on applications for licenses, names and addresses, or other identifying information relating to license holders shall be confidential and shall not be made available except to law enforcement agencies. No request for lists of local or statewide permit holders shall be made to any state or local law enforcement agency, peace officer, or other agency of government other than the Department of Kentucky State Police, and no state or local law enforcement agency, peace officer, or agency of government, other than the Department of Kentucky State Police, shall provide any information not entitled to it by law.
- (11) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after the loss, theft, or destruction of a license, the licensee shall notify the Department of Kentucky State Police of the loss, theft, or destruction. Failure to notify the Department of Kentucky State Police shall constitute a noncriminal

violation with a penalty of twenty-five dollars (\$25) payable to the clerk of the District Court. No court costs shall be assessed for a violation of this subsection. When a licensee makes application to change his or her residence address or other information on the license, neither the sheriff nor the Department of Kentucky State Police shall require a surrender of the license until a new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff.

- (12) If a license is lost, stolen, or destroyed, the license shall be automatically invalid, and the person to whom the same was issued may, upon payment of fifteen dollars (\$15) to the Department of Kentucky State Police, obtain a duplicate, upon furnishing a notarized statement to the Department of Kentucky State Police that the license has been lost, stolen, or destroyed.
- (13) (a) The commissioner of the Department of Kentucky State Police, or his or her designee in writing, shall revoke the license of any person who becomes permanently ineligible to be issued a license or have a license renewed under the criteria set forth in this section.
- (b) The commissioner of the Department of Kentucky State Police, or his or her designee in writing, shall suspend the license of any person who becomes temporarily ineligible to be issued a license or have a license renewed under the criteria set forth in this section. The license shall remain suspended until the person is again eligible for the issuance or renewal of a license.
- (c) Upon the suspension or revocation of a license, the commissioner of the Department of Kentucky State Police, or his or her designee in writing, shall:
1. Order any peace officer to seize the license from the person whose license was suspended or revoked; or
 2. Direct the person whose license was suspended or revoked to surrender the license to the sheriff of the person's county of residence within two (2) business days of the receipt of the notice.
- (d) If the person whose license was suspended or revoked desires a hearing on the matter, the person shall surrender the license as provided in paragraph (c)2. of this subsection and petition the commissioner of the Department of Kentucky State Police to hold a hearing on the issue of suspension or revocation of the license.
- (e) Upon receipt of the petition, the commissioner of the Department of Kentucky State Police shall cause a hearing to be held in accordance with KRS Chapter 13B on the suspension or revocation of the license. If the license has not been surrendered, no hearing shall be scheduled or held.
- (f) If the hearing officer determines that the licensee's license was wrongly suspended or revoked, the hearing officer shall order the commissioner of the Department of Kentucky State Police to return the license and abrogate the suspension or revocation of the license.
- (g) Any party may appeal a decision pursuant to this subsection to the District Court in the licensee's county of residence in the same manner as for the denial of a license.
- (h) If the license is not surrendered as ordered, the commissioner of the Department of Kentucky State Police shall order a peace officer to seize the license and deliver it to the commissioner.
- (i) Failure to surrender a suspended or revoked license as ordered is a Class A misdemeanor.
- (j) The provisions of this subsection relating to surrender of a license shall not apply if a court of competent jurisdiction has enjoined its surrender.
- (k) When a domestic violence order or emergency protective order is issued pursuant to the provisions of KRS Chapter 403 against a person holding a license issued under this section, the holder of the permit shall surrender the license to the court or to the officer serving the order. The officer to whom the license is surrendered shall forthwith transmit the license to the court issuing the order. The license shall be suspended until the order is terminated, or until the judge who issued the order terminates the suspension prior to the termination of the underlying domestic violence order or emergency protective order, in writing and by return of the license, upon proper motion by the license holder. Subject to the same conditions as above, a peace officer against whom an emergency protective order or domestic violence order has been issued shall not be permitted to carry a concealed deadly weapon when not on duty, the provisions of KRS 527.020 to the contrary notwithstanding.
- (14) (a) Not less than one hundred twenty (120) days prior to the expiration date of the license, the Department of Kentucky State Police shall mail to each licensee a written notice of the expiration and a renewal

form prescribed by the Department of Kentucky State Police. The outside of the envelope containing the license renewal notice shall bear only the name and address of the applicant. No other information relating to the applicant shall appear on the outside of the envelope sent to the applicant. The licensee may renew his or her license on or before the expiration date by filing with the sheriff of his or her county of residence the renewal form, a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections (3) and (4) of this section, and the required renewal fee. The sheriff shall issue to the applicant a receipt for the application for renewal of the license and shall date the receipt.

- (b) A license which has expired shall be void and shall not be valid for any purpose other than surrender to the sheriff in exchange for a renewal license.
 - (c) The license shall be renewed to a qualified applicant upon receipt of the completed renewal application, records check as specified in subsection (3) of this section, determination that the renewal applicant is not ineligible for a license as specified in subsection (4), and appropriate payment of fees. Upon the issuance of a new license, the old license shall be destroyed by the sheriff. A licensee who fails to file a renewal application on or before its expiration date may renew his or her license by paying, in addition to the license fees, a late fee of fifteen dollars (\$15). No license shall be renewed six (6) months or more after its expiration date, and the license shall be deemed to be permanently expired six (6) months after its expiration date. A person whose license has permanently expired may reapply for licensure pursuant to subsections (7), (8), and (9) of this section.
- (15) The licensee shall carry the license at all times the licensee is carrying a concealed firearm or other deadly weapon and shall display the license upon request of a law enforcement officer. Violation of the provisions of this subsection shall constitute a noncriminal violation with a penalty of twenty-five dollars (\$25), payable to the clerk of the District Court, but no court costs shall be assessed.
- (16) Except as provided in KRS 527.020, no license issued pursuant to this section shall authorize any person to carry a concealed firearm into:
- (a) Any police station or sheriff's office;
 - (b) Any detention facility, prison, or jail;
 - (c) Any courthouse, solely occupied by the Court of Justice courtroom, or court proceeding;
 - (d) Any meeting of the governing body of a county, municipality, or special district; or any meeting of the General Assembly or a committee of the General Assembly, except that nothing in this section shall preclude a member of the body, holding a concealed deadly weapon license, from carrying a concealed deadly weapon at a meeting of the body of which he or she is a member;
 - (e) Any portion of an establishment licensed to dispense beer or alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to that purpose;
 - (f) Any elementary or secondary school facility without the consent of school authorities as provided in KRS 527.070, any child-caring facility as defined in KRS 199.011, any day-care center as defined in KRS 199.894, or any certified family child-care home as defined in KRS 199.8982, except however, any owner of a certified child-care home may carry a concealed firearm into the owner's residence used as a certified child-care home;
 - (g) An area of an airport to which access is controlled by the inspection of persons and property; or
 - (h) Any place where the carrying of firearms is prohibited by federal law.
- (17) The owner, business or commercial lessee, or manager of a private business enterprise, day-care center as defined in KRS 199.894 or certified or licensed family child-care home as defined in KRS 199.8982, or a health-care facility licensed under KRS Chapter 216B, except facilities renting or leasing housing, may prohibit persons holding concealed deadly weapon licenses from carrying concealed deadly weapons on the premises and may prohibit employees, not authorized by the employer, holding concealed deadly weapons licenses from carrying concealed deadly weapons on the property of the employer. If the building or the premises are open to the public, the employer or business enterprise shall post signs on or about the premises if carrying concealed weapons is prohibited. Possession of weapons, or ammunition, or both in a vehicle on the premises shall not be a criminal offense so long as the weapons, or ammunition, or both are not removed from the vehicle or brandished while the vehicle is on the premises. A private but not a public employer may prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed

deadly weapons, or ammunition, or both in vehicles owned by the employer, but may not prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employee, except that the Justice and Public Safety Cabinet may prohibit an employee from carrying any weapons, or ammunition, or both other than the weapons, or ammunition, or both issued or authorized to be used by the employee of the cabinet, in a vehicle while transporting persons under the employee's supervision or jurisdiction. Carrying of a concealed weapon, or ammunition, or both in a location specified in this subsection by a license holder shall not be a criminal act but may subject the person to denial from the premises or removal from the premises, and, if an employee of an employer, disciplinary measures by the employer.

- (18) All moneys collected by the Department of Kentucky State Police pursuant to this section shall be used to administer the provisions of this section and KRS 237.138 to 237.142. By March 1 of each year, the Department of Kentucky State Police and the Administrative Office of the Courts shall submit reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the amounts of money collected and the expenditures related to this section, KRS 237.138 to 237.142, and KRS 237.115, 244.125, 527.020, and 527.070, and the administration of the provisions of this section, KRS 237.138 to 237.142, and KRS 237.115, 244.125, 527.020, and 527.070.
- (19) The General Assembly finds as a matter of public policy that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed firearms and to occupy the field of regulation of the bearing of concealed firearms to ensure that no person who qualifies under the provisions of this section is denied his rights. The General Assembly does not delegate to the Department of Kentucky State Police the authority to regulate or restrict the issuing of licenses provided for in this section beyond those provisions contained in this section. This section shall be liberally construed to carry out the constitutional right to bear arms for self-defense.
- (20)
 - (a) A person who has a valid license issued by another state of the United States to carry a concealed deadly weapon in that state may, subject to provisions of Kentucky law, carry a concealed deadly weapon in Kentucky, and his or her license shall be considered as valid in Kentucky.
 - (b) The Department of Kentucky State Police shall, not later than thirty (30) days after July 15, 1998, and not less than once every six (6) months thereafter, make written inquiry of the concealed deadly weapon carrying licensing authorities in each other state as to whether a Kentucky resident may carry a concealed deadly weapon in their state based upon having a valid Kentucky concealed deadly weapon license, or whether a Kentucky resident may apply for a concealed deadly weapon carrying license in that state based upon having a valid Kentucky concealed deadly weapon license. The Department of Kentucky State Police shall attempt to secure from each other state permission for Kentucky residents who hold a valid Kentucky concealed deadly weapon license to carry concealed deadly weapons in that state, either on the basis of the Kentucky license or on the basis that the Kentucky license is sufficient to permit the issuance of a similar license by the other state. The Department of Kentucky State Police shall enter into a written reciprocity agreement with the appropriate agency in each state that agrees to permit Kentucky residents to carry concealed deadly weapons in the other state on the basis of a Kentucky-issued concealed deadly weapon license or that will issue a license to carry concealed deadly weapons in the other state based upon a Kentucky concealed deadly weapon license. If a reciprocity agreement is reached, the requirement to recontact the other state each six (6) months shall be eliminated as long as the reciprocity agreement is in force. The information shall be a public record and shall be available to individual requesters free of charge for the first copy and at the normal rate for open records requests for additional copies.
- (21) By March 1 of each year, the Department of Kentucky State Police shall submit a statistical report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the number of licenses issued, revoked, suspended, and denied since the previous report and in total and also the number of licenses currently valid. The report shall also include the number of arrests, convictions, and types of crimes committed since the previous report by individuals licensed to carry concealed weapons.
- (22) The following provisions shall apply to concealed deadly weapon training classes conducted by the Department of Criminal Justice Training or any other agency pursuant to this section:
 - (a) No concealed deadly weapon instructor trainer shall have his or her certification as a concealed deadly weapon instructor trainer reduced to that of instructor or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;

- (b) No concealed deadly weapon instructor shall have his or her certification as a concealed deadly weapon instructor license suspended or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;
- (c) The department shall not require prior notification that an applicant class or instructor class will be conducted by a certified instructor or instructor trainer;
- (d) Each concealed deadly weapon instructor or instructor trainer who teaches a concealed deadly weapon applicant or concealed deadly weapon instructor class shall supply the Department of Criminal Justice Training with a class roster indicating which students enrolled and successfully completed the class, and which contains the name and address of each student, within five (5) working days of the completion of the class. The information may be sent by mail, facsimile, e-mail, or other method which will result in the receipt of or production of a hard copy of the information. The postmark, facsimile date, or e-mail date shall be considered as the date on which the notice was sent. Concealed deadly weapon class applicant, instructor, and instructor trainer information and records shall be confidential. The department may release to any person or organization the name, address, and telephone number of a concealed deadly weapon instructor or instructor trainer if that instructor or instructor trainer authorizes the release of the information in writing. The department shall include on any application for an instructor or instructor trainer certification a statement that the applicant either does or does not desire the applicant's name, address, and telephone number to be made public;
- (e) An instructor trainer who assists in the conduct of a concealed deadly weapon instructor class or concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her certification. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon instructor or concealed deadly weapon class;
- (f) An instructor who assists in the conduct of a concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her license. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon class;
- (g) If the Department of Criminal Justice Training believes that a firearms instructor trainer or certified firearms instructor has not in fact complied with the requirements for teaching a certified firearms instructor or applicant class by not teaching the class as specified in KRS 237.126, or who has taught an insufficient class as specified in KRS 237.128, the department shall send to each person who has been listed as successfully completing the concealed deadly weapon applicant class or concealed deadly weapon instructor class a verification form on which the time, date, date of range firing if different from the date on which the class was conducted, location, and instructor of the class is listed by the department and which requires the person to answer "yes" or "no" to specific questions regarding the conduct of the training class. The form shall be completed under oath and shall be returned to the Department of Criminal Justice Training not later than forty-five (45) days after its receipt. A person who fails to complete the form, to sign the form, or to return the form to the Department of Criminal Justice Training within the time frame specified in this section or who, as a result of information on the returned form, is determined by the Department of Criminal Justice Training, following a hearing pursuant to KRS Chapter 13B, to not have received the training required by law shall have his or her concealed deadly weapon license revoked by the Department of Kentucky State Police, following a hearing conducted by the Department of Criminal Justice Training pursuant to KRS Chapter 13B, at which hearing the person is found to have violated the provisions of this section or who has been found not to have received the training required by law;
- (h) The department shall annually, not later than December 31 of each year, report to the Legislative Research Commission:
 1. The number of firearms instructor trainers and certified firearms instructors whose certifications were suspended, revoked, denied, or who were otherwise disciplined;
 2. The reasons for the imposition of suspensions, revocations, denials, or other discipline; and
 3. Suggestions for improvement of the concealed deadly weapon applicant training program and instructor process;

- (i) If a concealed deadly weapon license holder is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon license shall be forthwith revoked by the Department of Kentucky State Police as a matter of law;
- (j) If a concealed deadly weapon instructor or instructor trainer is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon instructor certification or concealed deadly weapon instructor trainer certification shall be revoked by the Department of Criminal Justice Training as a matter of law; and
- (k) The following shall be in effect:
 - 1. Action to eliminate the firearms instructor trainer program is prohibited. The program shall remain in effect, and no firearms instructor trainer shall have his or her certification reduced to that of certified firearms instructor;
 - 2. The Department of Kentucky State Police shall revoke the concealed deadly weapon license of any person who received no firearms training as required by KRS 237.126 and administrative regulations, or who received insufficient training as required by KRS 237.128 and administrative regulations, if the person voluntarily admits nonreceipt of training or admits receipt of insufficient training, or if either nonreceipt of training or receipt of insufficient training is proven following a hearing conducted by the Department of Criminal Justice Training pursuant to KRS Chapter 13B.

Signed by Governor March 21, 2013.

CHAPTER 74

(SB 188)

AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. The General Assembly confirms Executive Order 2012-1057, dated December 21, 2012, which reorganizes the Transportation Cabinet by establishing the Division of Customer Service within the Department of Vehicle Regulation and, within the Office of Human Resource Management, changing the names of the Division of Personnel Administration to the Division of Personnel Management and the Division of Employee Management to the Division of Employee Relations.

Signed by Governor March 21, 2013.

CHAPTER 75

(SB 202)

AN ACT relating to self-insured groups.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 304.50-010 is amended to read as follows:

- (1) The commissioner may authorize twenty (20) or more employers with common interests or membership in a bona fide trade association, or two (2) or more governmental entities, to enter into agreements to pool their liabilities under KRS Chapter 342 for the purpose of qualifying as a workers' compensation self-insured group under this subtitle and KRS 342.350. ***Any heterogeneous self-insured group so authorized may contract and may sue and be sued in the name adopted by the group.***
- (2) The commissioner shall promulgate administrative regulations as necessary to govern admission, certification, and regulation of workers' compensation self-insured groups as authorized by this section and KRS 342.350.

The commissioner shall take any and all action necessary to effectuate the provisions of this subtitle. The commissioner shall be responsible for maintaining records obtained or prepared in association with this oversight.

- (3) The Governor may assign the regulatory authority under this subtitle to another board or agency pursuant to KRS 12.028.
- (4) Except as specifically provided in this subtitle, no other provision of this chapter shall apply to a workers' compensation self-insured group.

➔Section 2. KRS 304.50-085 is amended to read as follows:

- (1) Each self-insured group shall be operated by a board of trustees. Except for a self-insured group formed by governmental entities, the board of trustees for each self-insured group shall consist of at least two (2) but not more than twenty (20) persons selected in the manner prescribed in the bylaws of the self-insured group or other laws of the Commonwealth.
- (2) The board of trustees shall:
 - (a) Be residents of Kentucky or officers of corporations authorized to do business in Kentucky;
 - (b) Administer the operations of the workers' compensation self-insured group ensuring that there is adequate funding to pay compensation required by KRS Chapter 342, that all claims are paid promptly and processed to conclusion, and that all necessary precautions are taken to safeguard the assets of the group;
 - (c) Maintain responsibility for all moneys collected or disbursed from the group;
 - (d) Maintain minutes of its meetings and make the minutes available to the commissioner and group members;
 - (e) Designate an administrator to carry out the policies established by the board of trustees and to provide day-to-day management of the self-insured group;
 - (f) Develop rates and collect premium and assessments; and
 - (g) Invest the self-insured group's funds.
- (3) The board of trustees shall not:
 - (a) Extend credit to individual group members for payment of premiums or assessments, except in accordance with payment plans filed with the commissioner;
 - (b) Permit the loan of any moneys to or borrow any moneys from the self-insured group or in the name of the group, except that a workers' compensation self-insured group formed by governmental entities may borrow moneys in the name of the group; or
 - (c) Have a direct or indirect pecuniary interest in a service organization.
- (4) ***A workers' compensation heterogeneous self-insured group may contract and may sue and be sued in the name adopted by the group.***
- (5) (a) The trustees may contract with a service organization, an administrator, or a fiscal agent to carry out the administration of the workers' compensation self-insured group.
 - (b) A service organization and its employees and agents shall be duly licensed to perform those functions for which a license is required under Kentucky law.
 - (c) A revolving fund of not more than twenty percent (20%) of estimated premiums may be established for use by a service organization for the payment of claims.
- (6)~~(5)~~ In its discretion, the workers' compensation self-insured group may refer to its trustees as directors. If this is done, the provisions of this subtitle referring to trustees shall be construed as referring to directors.

➔Section 3. KRS 342.350 is amended to read as follows:

- (1) In order to comply with KRS 342.340, groups of employers may form, either among themselves or with employers in other states, mutual insurance associations, or reciprocal or interinsurance exchanges subject to the insurance laws of this state and any reasonable conditions and restrictions not inconsistent therewith fixed by the commissioner. Membership in these mutual insurance associations or reciprocal or interinsurance

exchanges so approved, together with evidence of the payment of premiums due, shall be evidence of compliance with KRS 342.340.

- (2) The commissioner may, except as provided in subsection (3), require any mutual insurance association or reciprocal or interinsurance exchange to purchase an annuity or to effect reinsurance with a company authorized to transact insurance in this state or to make a deposit with a bank or trust company of this state that shall in either case be approved by the commissioner for the purpose of fully securing the payment of all deferred installments upon any claim for compensation.
- (3) Any mutual insurance association or reciprocal or interinsurance exchange possessing a surplus of at least one hundred thousand dollars (\$100,000) and not less in amount than the capital required of a domestic stock insurance company transacting the same kind of insurance shall not be required to purchase an annuity or effect reinsurance with a company authorized to transact insurance in this state or to make a deposit with a bank or trust company of this state for the purpose of fully securing the payment of all deferred installments upon any claim for compensation.
- (4) In addition, under the provisions of KRS 304.50-010 and administrative regulations promulgated by the commissioner of the Department of Insurance, twenty (20) or more employers with common interests or membership in a bona fide trade association or two (2) or more city, county, charter county, urban-county, or consolidated local government employers or their agencies may enter into agreements to pool their liabilities under this chapter for the purpose of qualifying as self-insured groups. ***Any heterogeneous self-insured group so authorized may contract and may sue and be sued in the name adopted by the group.***

➔Section 4. KRS 304.48-250 is amended to read as follows:

- (1) If the assets of a liability *self*-insurance group are at any time insufficient to enable the group to discharge its legal liabilities, other obligations, and to maintain the required reserves under this subtitle, the group shall immediately levy an assessment upon its members for the amount necessary to make up the deficiency.
- (2) If there is a deficiency in any fund year, the deficiency shall be made up immediately, from the following:
 - (a) Surplus from a fund year other than the current fund year after prior notice of the transfer has been given to the commissioner;
 - (b) Administrative funds;
 - (c) Assessment of membership; or
 - (d) Alternate methods as the commissioner may direct or approve.
- (3) If a liability self-insurance group fails to assess its members within thirty (30) days to make up a deficit, the commissioner shall order it to do so. This subsection shall not apply to liability self-insurance groups formed by governmental entities which do not have joint and several liability.
- (4) If a liability self-insurance group fails to make the required assessment of its members within thirty (30) days after the commissioner orders it to do so, or if the deficiency is not fully made up within sixty (60) days after the date on which the assessment is made, or within a longer period of time as may be permitted by the commissioner, the group shall be determined to be insolvent and may be placed in delinquency proceedings as an insurer pursuant to Subtitle 33 of this chapter.
- (5) ***(a) Governmental entities that:***
 - 1. Participate or have participated in a liability self-insurance group authorized by this subtitle; and***
 - 2. Are assessed by the liability self-insurance group to cover an accrued deficit; may finance the payment of the assessment over a period not to exceed twenty (20) years.******(b) Financing obtained pursuant to paragraph (a) of this subsection may be accomplished by:***
 - 1. The issuance of bonds, notes, or other obligations; or***
 - 2. A lease, installment payment agreement, or other similar agreement.******(c) If the governmental entity fails to make a scheduled payment on the financing obtained pursuant to paragraph (a) of this subsection, any payments due to that governmental entity shall be withheld or intercepted using the process established in KRS 160.160(5).***

- (6) *Except as provided in subsection (5) of this section, all other provisions of the Kentucky Revised Statutes applying to any financing obtained by a governmental entity shall apply.*

➔Section 5. KRS 304.50-055 is amended to read as follows:

- (1) A workers' compensation self-insured group shall establish plans for premium payment, determination and collection of assessments, and for declaration and payment of dividends or other disbursements, which shall be filed for prior approval with the commissioner. Any change in the plans for premium payment, assessments, or dividends shall be filed for prior approval with the commissioner. Approval of plans for assessments and dividends does not constitute approval of any particular assessment or dividend by the commissioner.
- (2) Prior to the inception of each group member's self-insurance year, the trustees shall collect from that member at least twenty-five percent (25%) of the estimated premium for the ensuing year, except that in the case of a self-insured group formed by governmental entities twenty-five percent (25%) of the estimated premium for the ensuing year shall be collected no later than thirty (30) days after the beginning of the self-insured group's self-insurance year. The balance of the estimated premium shall be collected in either quarterly or monthly installments as set forth in the enabling documents described in KRS 304.50-030(2)(b) or 304.50-060(2)(b). Each group member's payroll shall be audited annually and an adjustment to premium shall be made accordingly.
- (3) A disbursement from a workers' compensation self-insured group fund shall be for a purpose related to the self-insured group. A dividend shall not be approved or paid until at least thirty-six (36) months after the expiration of the self-insurance year and shall be paid from surplus funds not required for payment of claims or other liabilities. The dividends shall be paid or credited to members according to the reasonable classifications the trustees may establish. A dividend shall not be paid which unfairly discriminates between members of the same classifications. A dividend plan shall specify whether past group members are eligible for the dividend. Payment of a dividend under a dividend plan shall not be made unless the self-insured group has notified the commissioner of its intent to make a dividend payment at least thirty (30) days prior to the payment, and the commissioner has not disapproved the payment within that time.
- (4) The formula to be used for collection of assessments shall be determined by the trustees and approved by the commissioner. Assessments shall be fair and equitable and shall not unfairly discriminate between members of the same classification.
- (5) A trustee, fiscal agent, or service organization shall not utilize an asset of the self-insured group for a purpose unrelated to workers' compensation. The trustees shall maintain cash or cash equivalent accounts as may be prudently necessary to pay expenses without having to liquidate long-term investments.
- (6) The trustees may invest funds in:
 - (a) United States Government bonds, United States Treasury notes, Treasury bills, or other direct obligations guaranteed by the full faith and credit of the United States Government or its agencies;
 - (b) Tax exempt obligations issued by the Commonwealth of Kentucky or its agencies with a minimum rating of "A" by Standard & Poor;
 - (c) Obligations issued by a county, district, municipality, or other legal authority within the Commonwealth with a minimum rating of "AA" by Standard & Poor;
 - (d) Investment share accounts in a savings and loan association in the Commonwealth whose deposits are insured by a federal agency;
 - (e) Certificates of deposit if issued by a duly chartered commercial bank;
 - (f) At the time of purchase, equity securities actively traded on the New York or NASDAQ Stock Exchanges or other registered national securities exchanges with no individual equity holding comprising greater than ten percent (10%) of the equity portion of the portfolio reflected on the most recent quarterly or annual statement of financial condition on file with the commissioner.
 1. An investment in an individual equity holding shall not represent at the time of purchase more than five percent (5%) of the total market value of the security.
 2. At the time of purchase, investments in equity securities shall not exceed twenty percent (20%) of the total market value of the investment portfolio of the self-insured group reflected on the most recent quarterly or annual statement of financial condition on file with the commissioner;
 - (g) Corporate bonds if:

1. The bond is issued, assumed, or guaranteed by a solvent institution created or existing under the laws of the United States, or a state, province, district, or territory;
 2. At the time of purchase, the corporate bond investments do not exceed twenty-five percent (25%) of the total market value of the investment portfolio reflected on the most recent quarterly or annual statement of financial condition on file with the commissioner; and
 3. The bond has a minimum rating of "A" by Standard and Poor; and
- (h) At the time of purchase, mutual funds and exchange traded funds if the investments do not exceed twenty percent (20%) of the total market value of the investment portfolio reflected on the most recent quarterly or annual statement of financial condition on file with the commissioner.
- (7) Of the aggregate investments made by the trustees of the self-insured group under this section:
- (a) Not less than fifty percent (50%) of the total market value of the entire investment portfolio shall be held in cash, cash equivalents, or securities as described in subsection (6)(a) to (e) of this section; and
 - (b) A minimum of five percent (5%) of the total investment portfolio value shall be maintained in cash or cash equivalent accounts or United States Treasury and Federal Agency Securities with a remaining maturity of one (1) year or less.
- (8) The commissioner may permit variation from the requirements of this section for good cause.
- (9) (a) ***Governmental entities that:***
1. ***Participate or have participated in a workers' compensation self-insured group authorized by this subtitle; and***
 2. ***Are assessed by the workers' compensation self-insured group to cover an accrued deficit; may finance the payment of the assessment over a period not to exceed twenty (20) years.***
- (b) ***Financing obtained pursuant to paragraph (a) of this subsection may be accomplished by:***
1. ***The issuance of bonds, notes, or other obligations; or***
 2. ***A lease, installment payment agreement, or other similar agreement.***
- (c) ***If the governmental entity fails to make a scheduled payment on the financing obtained pursuant to paragraph (a) of this subsection, any payments due to that governmental entity shall be withheld or intercepted using the process established in KRS 160.160(5).***
- (10) ***Except as provided in subsection (9) of this section, all other provisions of the Kentucky Revised Statutes applying to any financing obtained by a governmental entity shall apply.***

Signed by Governor March 21, 2013.

CHAPTER 76

(SJR 14)

A JOINT RESOLUTION designating honorary names for various roads and bridges and directing the placement of honorary roadside signs.

WHEREAS, from time to time, the General Assembly has seen fit to honor various Kentuckians by naming portions of state highways and erecting commemorative roadway signs in their honor; and

WHEREAS, these Kentuckians have come from all walks of life, held a multitude of jobs, and had a variety of accomplishments that made them deserving of the honor; and

WHEREAS, these individuals have included former Governors, former members of the General Assembly, decorated veterans, slain law enforcement officers, local elected officials, astronauts, doctors, educators, distinguished athletes, and civic leaders; and

WHEREAS, every citizen of the Commonwealth owes a great debt of gratitude to the patriotic men and women killed and wounded in service to their country in times of great need; and

WHEREAS, the General Assembly has often honored the veterans of this state by naming portions of several roads, from interstates to small two-lane country roads, in their honor; and

WHEREAS, the General Assembly again sees fit to honor a group of individuals who have made the lives of their fellow Kentuckians better and brought honor and respect to the Commonwealth;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. The Transportation Cabinet shall designate United States Route 68 in Marion County, from the eastern city limits of Lebanon to the Boyle County line, as the "Deputy Sheriff Carl Anthony Rakes Memorial Highway." The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation. The designation under this section shall be in addition to any previous designation established for this road.

➔Section 2. The Transportation Cabinet shall designate the bridge on Kentucky Route 3459 in Harlan County as the "Lester Phillips Memorial Bridge." The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect the appropriate signage denoting this designation.

➔Section 3. The Transportation Cabinet shall designate Kentucky Route 86, from mile point 12 west to the Hardin County line, as the "Fire Chief Louis Crosier Highway," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 4. The Transportation Cabinet shall designate Kentucky Highway 1103, near the town of Line Fork, in Letcher County, as the "Banjo Pickers Highway," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 5. The Transportation Cabinet is hereby directed to designate the bridge on Kentucky Route 80 in Wootton near Down Cutshin Creek Road as the "Lt. Tommy Baker Memorial Bridge" and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage. The signs denoting the designation under this section shall bear the insignia of the Kentucky State Police.

➔Section 6. The Transportation Cabinet is hereby directed to designate the bridge on Kentucky Route 80 at its intersection with United States Highway 421, inside the city limits of Hyden, as the "Cpl. Will Baker Memorial Bridge" and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 7. The Transportation Cabinet shall designate Kentucky Highway 640 in Metcalfe County "The Kentucky Headhunters Band Highway," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation, including a sign in the town of Wisdom.

➔Section 8. The Transportation Cabinet shall designate Kentucky Route 582 in Knott County as the "Allen Amburgey Highway," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 9. The Transportation Cabinet shall designate Kentucky Route 61 in Bullitt County as the "Private Henry B. Mattingly Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation. The signs erected under this section shall denote that Private Henry Mattingly was a recipient of the Medal of Honor.

➔Section 10. The Transportation Cabinet is hereby directed to designate the United States Highway 127 bypass in Mercer County as the "Bataan Corregidor Memorial Highway." The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

➔Section 11. The Transportation Cabinet shall dedicate Kentucky Route 1146 in Perry County as the "PFC Billy Ray Patrick Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 12. The Transportation Cabinet is hereby directed to designate the bridge on Kentucky Route 2431 at its junction with United States Highway 421, near the Leslie County Middle/High School, as the "George Wooton Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 13. The Transportation Cabinet is hereby directed to honor Kristal Doolin by erecting signs on United States Highway 25E at the Knox County/Laurel County line and at the Knox County/Bell County line that

read "Home of 2013 Kentucky Teacher of the Year, Kristal Doolin." The signs erected under this section shall remain in place for at least one year from the date of their placement.

→Section 14. The Transportation Cabinet is hereby directed to designate the new bridge in North Cynthiana on United States Highway 27 as the "Joe B. Hall Bridge" and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

→Section 15. The Transportation Cabinet shall designate Kentucky Route 867 in Magoffin County as the "Spc. Ralph Honaker Jr. Memorial Highway," and shall, with 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

→Section 16. The Transportation Cabinet shall designate Kentucky Route 460, from the Camargo city limits to the Jeffersonville city limits, as the "Pvt. Dustin Gross Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

→Section 17. The Transportation Cabinet shall designate Kentucky Route 706 in Morgan County as the "Sloas Brothers Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

→Section 18. The Transportation Cabinet shall designate Kentucky Route 174 in Rowan County as the "Sandy Knipp Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

→Section 19. The Transportation Cabinet is hereby directed to designate the new bridge in Johnson County, connecting Kentucky Route 40 with the community of Concord, as the "Cpl. Samuel E. Welch and PFC Leonard Meek Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

→Section 20. The Transportation Cabinet is hereby directed to designate the bridge on Kentucky Route 40 east of its junction with Kentucky Route 2040, near the Meade Memorial Elementary School, as the "Walter Pack Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

→Section 21. The Transportation Cabinet is hereby directed to honor the B. Michael Caudill Middle School archery team by erecting signs on United States Highway 25 approaching the school in each direction that read, "Home of the B. Michael Caudill Middle School 2012 World Championship Archery Team." The signs shall be erected within 30 days of the effective date of this Resolution and shall remain in place for at least one year from the date of their placement.

→Section 22. The Transportation Cabinet is directed to designate the new Springfield Bypass from the intersection of United States Route 150 near St. Catherine College to the intersection of Kentucky Route 55 as the "Mike Haydon Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

→Section 23. The Transportation Cabinet is hereby directed to designate United States Highway 42 in Boone County between Interstate 75 and Kentucky Route 237 as the "Kenny Price Memorial Highway," and shall, within 30 days of the effective date of this Resolution erect the appropriate signage.

→Section 24. The Transportation Cabinet is hereby directed to designate one of the new bridges (upper to Wheelwright) on Kentucky Route 122 at Hi Hat in Floyd County as the "Doris B. Osborne 'Teacher' Memorial Bridge" and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

→Section 25. The Transportation Cabinet is hereby directed to designate one of the new bridges (lower to Hi Hat) on Kentucky Route 122 at Hi Hat in Floyd County as the "Harold G. Newman 'Teacher' Memorial Bridge" and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

→Section 26. The Transportation Cabinet is hereby directed to designate the bridge on Kentucky Route 2030 near the community of Little Mud Creek in Floyd County as the "Walter L. Akers 'Preacher' Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

→Section 27. The Transportation Cabinet shall designate United States Route 60 in Carter County, from mile point 9.0 to mile point 10.4, as the "Billie J. Grills Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation. This honorary designation shall supersede any previous designations for this section of highway.

➔Section 28. The Transportation Cabinet is hereby directed to designate the bridge on Kentucky Route 160 at Benham/Lynch in Harlan County as the "Pvt. Evan 'Moose' Pettypiece Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage denoting this designation.

➔Section 29. The Transportation Cabinet shall designate Kentucky Route 92 in McCreary County, from its intersection with United States Highway 27 to the Whitley County line, as the "McCreary County Veterans Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

➔Section 30. The Transportation Cabinet is hereby directed to designate the new steel plate girder bridge on United States Highway 460 in Pike County at the interchange with United States Highway 23 near Sookey's Creek, that leads from United States Highway 23 South onto the new United States Highway 460 East, as the "Pike County Korean War Memorial Bridge" and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 31. The Transportation Cabinet shall designate the bridge on Kentucky Route 55 that spans over Interstate 71 in Henry County as the "Phillip E. Heilman Bridge," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 32. The Transportation Cabinet shall designate the bridge on Kentucky Route 3379 at its intersection with Kentucky Route 979 over Branham's Creek in Floyd County, as the "Kenas and Donald Ray 'Bunker' Tackett Bridge," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

Signed by Governor March 21, 2013.

CHAPTER 77

(HB 41)

AN ACT relating to DNA.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

- ➔Section 1. KRS 422.285 is amended to read as follows:
- (1) (a) ***Except as provided in paragraph (b) of this subsection***~~[At any time]~~, a person who was convicted of a ***capital offense, a Class A felony, a Class B felony, or any offense designated a violent offense under KRS 439.3401***~~and sentenced to death for a capital offense~~ and who meets the requirements of this section may ***at any time*** request the forensic deoxyribonucleic acid (DNA) testing and analysis of any evidence that is in the possession or control of the court or Commonwealth, that is related to the investigation or prosecution that resulted in the judgment of conviction and that may contain biological evidence.
 - (b) ***This subsection shall not apply to offenses under KRS Chapter 218A, unless the offense was accompanied by another offense outside of that chapter for which testing is authorized by paragraph (a) of this subsection.***
 - (2) ***Upon receipt of a request under this section accompanied by a supporting affidavit containing sufficient factual averments to support the request from a person who meets the requirements of subsection (5)(f) of this section at the time the request is made for an offense to which the DNA relates, the court shall:***
 - (a) ***If the petitioner is not represented by counsel, appoint the Department for Public Advocacy to represent the petitioner for purposes of the request, pursuant to KRS 31.110(2)(c); or***
 - (b) ***If the petitioner is represented by counsel or waives appointment of counsel in writing or if the Department for Public Advocacy has previously withdrawn from representation of the petitioner for purposes of the request, require the petitioner to deposit an amount certain with the court sufficient to cover the reasonable costs of the testing being requested.***
 - (3) ***Counsel representing the petitioner shall be provided a reasonable opportunity to investigate the petitioner's request and shall be permitted to supplement the request. Pursuant to KRS 31.110(2)(c), the petitioner shall***

have no further right to counsel provided by the Department for Public Advocacy on the matter if counsel determines that it is not a proceeding that a reasonable person with adequate means would be willing to bring at his or her own expense. If the Department for Public Advocacy moves to withdraw as counsel for petitioner and the court grants the motion, the court shall proceed as directed under subsection (2)(b) of this section.

(4) *Upon receipt of the deposit required under subsection (2)(b) of this section or a motion from counsel provided by the Department for Public Advocacy to proceed, the court shall provide notice to the prosecutor and an opportunity to respond to the petitioner's request.*

(5)~~(2)~~ After *due consideration of the request and any supplements and responses thereto*~~[notice to the prosecutor and an opportunity to respond]~~, the court shall order DNA testing and analysis if the court finds that all of the following apply:

- (a) A reasonable probability exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through DNA testing and analysis;
- (b) The evidence is still in existence and is in a condition that allows DNA testing and analysis to be conducted;~~[and]~~
- (c) The evidence was not previously subjected to DNA testing and analysis or was not subjected to the testing and analysis that is now requested and may resolve an issue not previously resolved by the previous testing and analysis;
- (d) *Except for a petitioner sentenced to death, the petitioner was convicted of the offense after a trial or after entering an Alford plea;*
- (e) *Except for a petitioner sentenced to death, the testing is not sought for touch DNA, meaning casual or limited contact DNA; and*
- (f) *The petitioner is still incarcerated or on probation, parole, or other form of correctional supervision, monitoring, or registration for the offense to which the DNA relates.*

(6)~~(3)~~ After *due consideration of the request and any supplements and responses thereto*~~[notice to the prosecutor and an opportunity to respond]~~, the court may order DNA testing and analysis if the court finds that all of the following apply:

- (a) A reasonable probability exists that either:
 - 1. The petitioner's verdict or sentence would have been more favorable if the results of DNA testing and analysis had been available at the trial leading to the judgment of conviction; or
 - 2. DNA testing and analysis will produce exculpatory evidence;
- (b) The evidence is still in existence and is in a condition that allows DNA testing and analysis to be conducted;~~[and]~~
- (c) The evidence was not previously subject to DNA testing and analysis or was not subjected to the testing and analysis that is now requested and that may resolve an issue not previously resolved by the previous testing and analysis;
- (d) *Except for a petitioner sentenced to death, the petitioner was convicted of the offense after a trial or after entering an Alford plea;*
- (e) *Except for a petitioner sentenced to death, the testing is not sought for touch DNA, meaning casual or limited contact DNA; and*
- (f) *The petitioner is still incarcerated or on probation, parole, or other form of correctional supervision, monitoring, or registration for the offense to which the DNA relates.*

(7)~~(4)~~ *The provisions of KRS 17.176 to the contrary notwithstanding, the petitioner shall pay the costs of all testing and analysis ordered under this section. If the court determines that the petitioner is a needy person using the standards set out in KRS 31.120 and the Department for Public Advocacy so moves, the court shall treat the costs of testing and analysis as a direct expense of the defense for the purposes of authorizing payment under KRS 31.185*~~[If the court orders testing and analysis pursuant to subsection (2) of this section, the court shall order the responsibility for payment, if necessary. If the court orders testing and analysis of this section pursuant to subsection (3) of this section, the court shall require the petitioner to pay the costs of testing and analysis, if required by KRS 17.176. If the court orders testing and analysis under subsection (2) or~~

~~(3) of this section the court shall appoint counsel to those petitioners who qualify for appointment under KRS Chapter 31.~~

- ~~(8)~~~~(5)~~ If the prosecutor or defense counsel has previously subjected evidence to DNA testing and analysis, the court shall order the prosecutor or defense counsel to provide all the parties and the court with access to the laboratory reports that were prepared in connection with the testing and analysis, including underlying data and laboratory notes. If the court orders DNA testing and analysis pursuant to this section, the court shall order the production of any laboratory reports that are prepared in connection with the testing and analysis and may order the production of any underlying data and laboratory notes.
- ~~(9)~~~~(6)~~ If a petition is filed pursuant to this section, the court shall order the state to preserve during the pendency of the proceeding all evidence in the state's possession or control that could be subjected to DNA testing and analysis. The state shall prepare an inventory of the evidence and shall submit a copy of the inventory to the defense and the court. If the evidence is intentionally destroyed after the court orders its preservation, the court may impose appropriate sanctions, including criminal contempt.
- ~~(10)~~~~(7)~~ The court may make any other orders that the court deems appropriate, including designating any of the following:
- (a) The preservation of some of the sample for replicating the testing and analysis; and
 - (b) Elimination samples from third parties.
- ~~(11)~~~~(8)~~ If the results of the DNA testing and analysis are not favorable to the petitioner, the court shall dismiss the petition. The court may make further orders as it deems appropriate, including any of the following:
- (a) Notifying the Department of Corrections and the Parole Board;
 - (b) Requesting that the petitioner's sample be added to the Department of Kentucky State Police database; and
 - (c) Providing notification to the victim or family of the victim.
- ~~(12)~~~~(9)~~ ~~In a capital case in which the death penalty has been imposed,~~ Notwithstanding any other provision of law that would bar a hearing as untimely, if the results of the DNA testing and analysis are favorable to the petitioner, the court shall order a hearing and make any further orders that are required pursuant to this section or the Kentucky Rules of Criminal Procedure.

➔Section 2. KRS 17.176 is amended to read as follows:

- (1) In addition to the requirements specified in KRS 422.285, any evidence submitted for testing and analysis pursuant to KRS 422.285 or 422.287 shall be of probative value. When the motion is filed with the court requesting testing and analysis of evidence pursuant to this section, the applicant shall include sufficient information about the evidence, the necessity for its testing and analysis, and its applicability to the proceeding for a court to make a determination of the probative value of the evidence proposed to be tested and analyzed.
- (2) The prosecution, with a court order issued pursuant to this section, may submit not more than five (5) items of evidence for testing and analysis by the Department of Kentucky State Police forensic laboratory or another laboratory selected by the Department of Kentucky State Police forensic laboratory ~~without charge~~. ***In capital cases, the tests shall be performed without charge to the prosecution.*** The cost of testing and analysis of any items of evidence in excess of the five (5) initial items to be tested and analyzed shall be borne by the agency or person requesting the testing and analysis. Any additional item of evidence submitted for testing and analysis shall be accompanied by the court order specified in subsection (1) of this section.
- (3) The defense, with a court order issued pursuant to this section, may submit not more than five (5) items of evidence for testing and analysis by the Department of Kentucky State Police forensic laboratory or another laboratory selected by the Department of Kentucky State Police forensic laboratory ~~without charge~~. ***In capital cases, the tests shall be performed without charge to the defense.*** The cost of testing and analysis of any item of evidence in excess of the five (5) initial items to be tested and analyzed shall be borne by the agency or person requesting the testing and analysis. Any additional item of evidence submitted for testing and analysis shall be accompanied by the court order specified in subsection (1) of this section.
- (4) Any other party in a criminal case, with permission of the court after a specific showing of necessity for testing and analysis, together with the items specified in subsection (1) of this section, may submit an item of evidence for testing and analysis by the Department of Kentucky State Police forensic laboratory or another laboratory selected by the Department of Kentucky State Police forensic laboratory for testing and analysis.

The cost of testing and analysis of any item of evidence permitted to be submitted by the court shall be borne by the person or organization requesting the testing and analysis.

- (5) The Department of Kentucky State Police shall promulgate by administrative regulation a uniform schedule of fees to be charged for testing and analysis conducted pursuant to KRS 422.285 or 422.287.

➔Section 3. KRS 524.140 is amended to read as follows:

- (1) As used in this section:

(a) "Defendant" means a person charged with a:

1. Capital offense, Class A felony, Class B felony, or Class C felony; or
2. Class D felony under KRS Chapter 510; and

(b) "Following trial" means after:

1. The first appeal authorized by the Constitution of Kentucky in a criminal case has been decided; or
2. The time for the first appeal authorized by the Constitution of Kentucky in a criminal case has lapsed without an appeal having been filed.

- (2) No item of evidence gathered by law enforcement, prosecutorial, or defense authorities that may be subject to deoxyribonucleic acid (DNA) evidence testing and analysis in order to confirm the guilt or innocence of a criminal defendant shall be disposed of prior to trial of a criminal defendant unless:

- (a) The prosecution has determined that the defendant will not be tried for the criminal offense;
- (b) The prosecution has made a motion before the court in which the case would have been tried to destroy the evidence; and
- (c) The court has, following an adversarial proceeding in which the prosecution and the defendant were heard, authorized the destruction of the evidence by court order.

- (3) No item of evidence gathered by law enforcement, prosecutorial, or defense authorities that may be subject to deoxyribonucleic acid (DNA) evidence testing and analysis in order to confirm the guilt or innocence of a criminal defendant shall be disposed of following the trial unless:

- (a) The evidence, together with DNA evidence testing and analysis results, has been presented at the trial, and the defendant has been found guilty, pled guilty, or entered an Alford plea at the trial;
- (b) The evidence was not introduced at the trial, or if introduced at the trial was not the subject of DNA testing and analysis, and the defendant has been found guilty, pled guilty, or entered an Alford plea at the trial, and the trial court has ordered the destruction of the evidence after an adversarial hearing conducted upon motion of either the prosecution or the defendant;
- (c) The trial resulted in the defendant being found not guilty or the charges were dismissed after jeopardy attached, whether or not the evidence was introduced at the trial or was subject to DNA testing and analysis or not, and the trial court ordered the destruction of the evidence after an adversarial hearing conducted upon motion of either the prosecution or the defendant; or
- (d) The trial resulted in the dismissal of charges against the defendant, and the defendant may be subject to retrial, in which event the evidence shall be retained until after the retrial, which shall be considered a new trial for the purposes of this section.

- (4) The burden of proof for a motion to destroy evidence that may be subject to DNA testing and analysis shall be upon the party making the motion, and the court may permit the destruction of the evidence under this section upon good cause shown favoring its destruction.

- (5) It is recognized by the General Assembly that the DNA evidence laboratory testing and analysis procedure consumes and destroys a portion of the evidence or may destroy all of the evidence if the sample is small. The consuming and destruction of evidence during the laboratory analysis process shall not result in liability for its consumption or destruction if the following conditions are met:

- (a) The Department of Kentucky State Police laboratory uses a method of testing and analysis which preserves as much of the biological material or other evidence tested and analyzed as is reasonably possible; or

- (b) If the Department of Kentucky State Police laboratory knows or reasonably believes that the entire sample of evidence to be tested and analyzed that the laboratory, prior to the testing or analysis of the evidence, notifies in writing the court which ordered the testing and analysis and counsel for all parties:
1. That the entire sample of evidence may be destroyed by the testing and analysis;
 2. The possibility that another laboratory may be able to perform the testing and analysis in a less destructive manner with at least equal results;
 3. The name of the laboratory capable of performing the testing and analysis, the costs of testing and analysis, the advantages of sending the material to that other laboratory, and the amount of biological material or other evidence which might be saved by alternative testing and analysis; and
 4. The Department of Kentucky State Police laboratory follows the directive of the court with regard to the testing and analysis; or
- (c) If the Department of Kentucky State Police laboratory knows or reasonably believes that so much of the biological material or evidence may be consumed or destroyed in the testing and analysis that an insufficient sample will remain for independent testing and analysis that the laboratory follows the procedure specified in paragraph (b) of this subsection.
- (6) Destruction of evidence in violation of this section shall be a violation of KRS 524.100.
- (7) Subject to KRS 422.285(9)~~((6))~~, the appropriate governmental entity shall retain any biological material secured in connection with a criminal case for the period of time that any person remains incarcerated in connection with that case. The governmental entity shall have the discretion to determine how the evidence is retained pursuant to this section, provided that the evidence is retained in a condition suitable for DNA testing and analysis.

Signed by Governor March 22, 2013.

CHAPTER 78

(HB 66)

AN ACT relating to coal mine reclamation, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 8 of this Act, unless the context otherwise requires:

- (1) *"Actuarial soundness" means the fund has achieved financial positioning such that the collected revenues, including bond forfeiture amounts, and earned investment income in aggregate are sufficient to build reserves that can be reasonably anticipated to provide for the long-term future expected reclamation losses, including shock or catastrophic losses, loss adjustment expenses, and administrative expenses associated with the fund's operation;*
- (2) *"Date of establishment of the fund" means July 1, 2013;*
- (3) *"Kentucky reclamation guaranty fund" or "the fund" means the fund established in Section 2 of this Act;*
- (4) *"Reclamation Guaranty Fund Commission" or "commission" means the commission established in Section 3 of this Act; and*
- (5) *"Voluntary bond pool fund" means that bond pool fund established in KRS 350.700 to 350.755, which are repealed by Section 12 of this Act.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

- (1) *There is hereby established a revolving fund to be known as the "Kentucky reclamation guaranty fund" which shall be administratively assigned to the cabinet and which shall be administered in accordance with the terms of Sections 1 to 8 of this Act.*

- (2) *The fund shall consist of all moneys collected pursuant to Sections 6 and 7 of this Act.*
- (3) *Moneys collected pursuant to subsection (2) of this section shall not be utilized for the reclamation of permits forfeited prior to January 1, 2014, except for obligations as may arise from the forfeiture of bonds prior to that date secured by the voluntary bond pool.*
- (4) *Moneys in the fund shall be held in an interest-bearing account and shall be used as follows and for no other purposes:*
 - (a) *To reclaim, in the event of forfeiture, permit areas or increments thereof, covered by the fund;*
 - (b) *To compensate the cabinet for costs of administering the fund;*
 - (c) *To fund audits and actuarial studies required under the provisions of Section 4 of this Act; and*
 - (d) *To cover all operating expenses and any necessary legal expenses of the Reclamation Guaranty Fund Commission.*
- (5) *Moneys in the fund shall not be utilized for long-term treatment of substandard water discharges and subsidence.*
- (6) *Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of a fiscal year shall not lapse, but shall be carried forward into the succeeding fiscal year for use as provided in this section.*
- (7) *The fund shall be exempt from the requirements applicable to insurers under KRS Chapter 304.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

- (1) *There is hereby created the Reclamation Guaranty Fund Commission which shall be administratively attached to the cabinet. The commission shall consist of seven (7) members. One (1) member shall be the secretary of the Energy and Environment Cabinet, or his or her designee, who shall serve as chair of the commission. The other six (6) members of the commission shall be appointed by the Governor on July 1, 2013, as follows:*
 - (a) *Three (3) members of the commission shall be representatives of the coal mining industry, with the following qualifications:*
 - 1. *A representative of a permittee which participates in the fund and has mined and sold less than one million (1,000,000) tons of coal during the twelve (12) months preceding appointment;*
 - 2. *A representative of a permittee which participates in the fund and has mined and sold over one million (1,000,000) tons but less than five million (5,000,000) tons of coal during the twelve (12) months preceding appointment;*
 - 3. *A representative of a permittee which participates in the fund and has mined and sold more than five million (5,000,000) tons of coal during the twelve (12) months preceding appointment; or*
 - 4. *If no permittee which participates in the fund has mined and sold more than five million (5,000,000) tons of coal in the twelve (12) months preceding appointment, the member shall be selected from permittees which meet the criteria for appointment set out in subparagraph 2. of this paragraph; and*
 - (b) *Two (2) members of the commission shall be representatives with a background in the insurance and banking industries with knowledge of the coal industry and chosen from a list of six (6) nominees submitted by the chairman of the fund and the remaining members of the commission; and*
 - (c) *One (1) member shall be a certified public accountant, who is not associated with, or has a financial interest in, coal mining operations in the Commonwealth of Kentucky.*
- (2) (a) *The Governor shall initially appoint the other six (6) members as follows and whose terms shall commence with the beginning date of the establishment of the fund:*
 - 1. *Two (2) members for a term of two (2) years;*
 - 2. *Two (2) members for a term of three (3) years; and*
 - 3. *Two (2) members for a term of four (4) years.*

- (b) *Subsequent appointments shall be made by the Governor for terms of four (4) years. Members may serve successive terms if reappointed, not to exceed two (2) full consecutive terms. Any vacancy in an unexpired term shall be filled for the unexpired portion of the term by the Governor.*
- (c) *A member of the commission shall be elected at the first meeting of each fiscal year by majority vote of the other members to serve as vice chair of the commission whose term shall be for one (1) year.*
- (3) *The commission shall adopt bylaws by which it shall establish procedures for conduct of meetings.*
- (4) *The official domicile of the commission shall be Franklin County. All actions of the commission shall be considered to occur in Franklin County.*
- (5) *The commission shall meet no less than once a month with the first meeting to be held on or before July 1, 2013, during the first year. Commencing with the second year, the commission shall meet no less than once every three (3) months. Four (4) members of the commission shall constitute a quorum at any meeting.*
- (6) *Each commission member, except the cabinet representative, shall receive one hundred fifty dollars (\$150) per diem for each meeting attended. Members of the commission also shall be reimbursed for actual and necessary expenses directly related to meetings of the commission.*
- (7) *If a member of the commission fails to attend four (4) consecutive meetings, the position shall be considered to be vacated, and the Governor, after receiving notice of the vacancy from the commission, shall immediately appoint a qualified person to serve the remainder of the term.*
- (8) *Any member of the commission having any direct or indirect financial interest or any other conflict of interest with respect to an assignment of classification pursuant to Section 7 of this Act, sanctions for non-payment of fees established in Sections 6 and 7 of this Act, or assessment of the fee pursuant to Section 7 of this Act, shall not participate in any discussion or vote pertaining to specific mining operations for which the member is an owner or employee.*
- (9) *Misuse of the office by a member of the board to obtain personal, pecuniary, or material gain or advantage for himself or a company in his dominion or control shall be automatic grounds for removal by the Governor.*
- (10) *Members of the commission, its agents, and employees shall be immune from suit in any action, civil or criminal, which is based upon any official act or acts performed by them in good faith.*
- (11) *Members of the commission, its agents, and employees shall be subject to the terms and provisions of the Executive Branch Code of Ethics, as set forth in KRS Chapter 11A.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

The commission shall be attached to the cabinet for administrative purposes and staffed by the Office of the Reclamation Guaranty Fund established pursuant to Section 5 of this Act. The commission shall:

- (1) *Review, recommend, and promulgate administrative regulations, pursuant to KRS Chapter 13A, which are necessary to:*
 - (a) *Monitor and maintain the fund;*
 - (b) *Establish a structure for the administration of processing claims and making payments;*
 - (c) *Establish mechanisms for review of the viability of the fund and criteria for determining when a recommendation shall be made to the secretary of the cabinet to close the fund for failure to maintain actuarial soundness;*
 - (d) *Set the schedule of penalties consistent with this chapter associated with late payment, failure to pay, and defrauding the commission through the submission of fraudulent information or withholding requested documentation;*
 - (e) *Review, in accordance with the applicable administrative regulations of the cabinet and Sections 6 and 7 of this Act, all assignments of permittee classification of mine type and assessment of established fees; and*
 - (f) *Establish a structure for the payment of the assessments required in subsection (2)(b) of Section 6 and Section 7 of this Act;*
- (2) *Notify permittees of suspension or reinstatement of the fees required by subsection (2) of Section 7 of this Act;*

- (3) *Employ, in accordance with KRS 45A.690 to 45A.725, a certified public accountant in good standing to perform an annual audit of the fund for the first five (5) years of the operations of the fund. Thereafter, the commission shall have audits performed every two (2) years or more frequently as determined necessary by the commission. Audit results shall be reported to the commission and to the Governor;*
- (4) *Employ, in accordance with KRS 45A.690 to 45A.725, a qualified actuary to perform an actuarial study annually for the first three (3) years of the operation of the fund. Thereafter, the commission shall have actuarial studies performed every two (2) years or more frequently as determined necessary by the commission. Results of these studies shall be reported to the commission and to the Governor.*
- (5) *Perform all functions necessary and authorize expenditures from the fund necessary to carry out the provisions of law and the administrative regulations of the commission;*
- (6) *Report to the Governor and the Interim Joint Committee on Natural Resources and Environment no later than December 31 of each year as to the financial status of the reclamation guaranty fund;*
- (7) *Conduct investigations and issue subpoenas on behalf of the commission to verify reporting, payment, and other activities of permittees related to the fund. All documents produced in response to investigations and subpoenas by the commission shall remain confidential and not subject to the provisions of KRS 61.870 through 61.882; and*
- (8) *Bring an action in Franklin Circuit Court against any permittee for the recovery of funds spent by the commission by reason of forfeiture of that permittee. The commission may utilize the legal department of the cabinet for this purpose.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

- (1) *The Governor shall establish an Office of the Reclamation Guaranty Fund and appoint an executive director to manage its affairs. The executive director shall serve at the pleasure of the Governor and have all the authority to hire staff, contract for necessary services, and implement the collection of fees and assessments set forth by the commission.*
- (2) *The executive director shall be responsible for:*
 - (a) *Collecting and depositing into the fund all fees submitted by permittees;*
 - (b) *Assessing permit eligibility of permittees for late payment or nonpayment of fees, in accordance with Sections 6 and 7 of this Act;*
 - (c) *Compiling information about permittees for use by the commission in assigning or revising classifications and fees;*
 - (d) *Paying moneys out of the fund as authorized by the commission;*
 - (e) *At each meeting of the commission, reporting to the same, the status of the fund and activities of the fund's executive director; and*
 - (f) *Performing other administrative functions as are necessary to carry out the purposes of Sections 1 to 8 of this Act.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

- (1) *Any permittee of a surface coal mining operation, as defined in KRS 350.010(1), located in Kentucky who meets the criteria set forth in this section and in administrative regulations promulgated by the cabinet, shall be a mandatory participant in the fund, except as provided in subsection (5) of this section.*
- (2) *The initial capitalization of the fund shall be accomplished in the following manner:*
 - (a) *Transfer of the assets and liabilities of the voluntary bond pool fund to the Kentucky reclamation guaranty fund upon the effective date of this Act; and*
 - (b) *On the date of the establishment of the fund, each entity holding a permit subject to subsection (1) of this section shall be liable to the fund for the following one (1) time assessments, which shall be payable to the fund within thirty (30) days' notice of the amounts thereof:*
 1. *A start-up assessment of one thousand five hundred dollars (\$1,500); and*
 2. *An assessment of ten dollars (\$10) per active permitted acre.*

- (3) *Members of the former voluntary bond pool as established prior to the effective date of this Act, shall be exempt from the requirements of subsection (2)(b) and (4) of this section.*
- (4) *Entities entering the fund after the date of the establishment of the fund shall pay a one (1) time assessment of ten thousand dollars (\$10,000) to the fund. The cabinet shall not issue a permit to the entity until the one (1) time assessment is paid.*
- (5) *Member entities shall be given the option to provide full-cost bonds based on a reclamation cost estimate that reflects reclamation costs to the cabinet and certified by a registered professional engineer in lieu of participation in the fund. The estimate's calculations shall be equivalent to those set forth in the United States Office of Surface Mining Reclamation and Enforcement's Handbook for the Calculation of Reclamation Bond Amounts, OSM Directive TSR-1, and calculated on forms developed by the cabinet. If an applicant opts out and elects to provide a full cost bond, the applicant shall not be subject to any fees or to any provisions of Sections 1 to 8 of this Act.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

- (1) *In addition to the provisions of Sections 1 to 8 of this Act, each permittee shall submit a permit-specific bond, in accordance with KRS 350.060(11) and all administrative regulations promulgated thereunder.*
- (2) *Each permittee subject to subsection (1) of Section 6 of this Act shall pay to the fund a fee for each ton of coal mined and sold by surface and underground coal mining operations from each permit area. For the purposes of assessing tonnage fees, all permits subject to eligibility for expenditures from the fund shall be assigned to one (1) of the following classifications:*
 - (a) *Surface coal mining operations, including auger and highwall mining, for which an initial rate of seven and fifty-seven hundredths cents (\$0.0757) per ton of coal shall be paid to the fund;*
 - (b) *Underground coal mining operations, for which an initial rate of three and fifty-seven hundredths cents (\$0.0357) per ton of coal shall be paid to the fund;*
 - (c) *Permits that consist of combined surface and underground mining operations shall pay a fee in accordance with the predominant method of coal extraction;*
 - (d) *All permits previously subject to the voluntary bond pool fund at the time of its repeal by Section 12 of this Act shall:*
 1. *Be excluded from the start-up fee established in Section 6 of this Act;*
 2. *Pay the tonnage fees set forth in subsection (2)(a) and (b) of Section 7 of this Act to the fund in lieu of tonnage fees otherwise due under KRS 350.725(2);*
 3. *The fund shall continue to provide coverage for existing bonds previously issued for them by the voluntary bond pool; and*
 4. *Continue to receive subsidization of the reclamation bonding authorized under Sections 1 to 8 of this Act and the administrative regulations adopted pursuant thereto;*
 - (e) *Permits which are used exclusively for coal preparation and processing operations, loading activities, disposal of refuse operations, coal haulage and access roads, mine maintenance areas and other support facilities, and other permits not subject to the provisions of subsection (2)(a) and (b) of this section as determined by the commission shall pay an annual fee of ten dollars (\$10) per acre to the fund in equal quarterly installments; and*
 - (f) *Any permits, or expired permits, not subject to the fees in subsection (2)(a) to (e) of this section shall pay an annual fee of six dollars (\$6) per surface acre to the fund in equal quarterly installments. The fee shall not apply to permits that:*
 1. *Have not been initially disturbed after permit issuance by the permittees;*
 2. *Contain underground acreage only; or*
 3. *Have received an initial bond release in accordance with KRS 350.093(4)(a).*
- (3) (a) *The commission shall include in the fund under the terms set forth in paragraph (2)(d) of this section, future permits obtained by entities that are members of the voluntary bond pool fund at the date of the establishment of the fund, provided the entity and the entity's owners seeking permit coverage have:*

1. *Never committed a violation for mining without having first obtained the required permit under this chapter;*
 2. *Never forfeited a bond or had a permit revoked under this chapter;*
 3. *Never avoided forfeiture of a bond under this chapter because of a surety-performed reclamation work to avoid forfeiture;*
 4. *Never been determined to have demonstrated a pattern of violations pursuant to KRS 350.028(4), 350.130(3), or 350.465(3)(f);*
 5. *Not been issued more than four (4) order for cessation and immediate compliance pursuant to a failure to perform remediation within the time or under the terms specified by the cabinet in a notice of noncompliance and order for remedial measures in the most recent thirty-six (36) months of operation and the order was abated as ordered by the cabinet in a timely manner and was not for a violation of contemporaneous reclamation requirements as prescribed in administrative regulations promulgated by the cabinet and have reached final dispositions;*
 6. *Not committed more than three (3) violations for contemporaneous reclamation requirements as prescribed in administrative regulations promulgated by the cabinet in the most recent thirty-six (36) months of operation and the order was abated as ordered by the cabinet in a timely manner and have reached final disposition, except the commission may for good cause shown and by unanimous vote exclude violations that have been terminated by the cabinet with no civil penalty;*
 7. *Not committed more than eight (8) violations of surface mining permanent program requirements set forth in this chapter or any performance standards for mining established in administrative regulation promulgated by the cabinet pursuant to this chapter and which have reached final disposition on any one (1) permit in any twelve (12) month period of the most recent thirty-six (36) months of operation, except the commission may for good cause shown and by unanimous vote exclude the twelve (12) month period on one (1) permit during which the largest number of violations occurred and may for good cause shown and by unanimous vote exclude violations that were timely abated and terminated by the cabinet with no civil penalty; or*
 8. *Not had civil penalties under this chapter or imposed pursuant to administrative hearing of the cabinet remaining unpaid more than thirty (30) days after they were due and payable, within the most recent thirty-six (36) months of operation.*
- (b) *The existing members of the voluntary bond pool are deemed to qualify as members thereof under the provisions of this subsection and the provisions of this subsection shall only apply to the existing members of the voluntary bond pool prospectively from the effective date of this Act.*
- (4) *The increase in the total amount of bonds issued to any one (1) member of the voluntary bond pool under subsection (3) of this section shall not exceed twenty-five percent (25%) of the greater of:*
- (a) *The member's aggregate amount of bonds in force and issued by the voluntary bond pool at the time of the effective date of this Act; or*
 - (b) *The total of that member's aggregate amount of bonds in force and issued by the voluntary bond pool at the time of the effective date of this Act plus fifty-five percent (55%) of that total.*
- (5) *The commission may consider for inclusion in the fund under the terms set forth in paragraph (2)(d) of this section permits obtained by an entity which is not a participant of the fund at the time of the effective date of this Act provided the entity and the entity's owners can meet eligibility standards established in administrative regulations promulgated by the commission.*
- (6) *Any permits accepted into the fund under the terms set forth in subsection (3) of this section shall require payment of a permit-specific penal bond computed as a rate of two thousand dollars (\$2,000) for each acre or fraction of an acre included in the proposed permit area and shall pay the actuarially determined tonnage rates set forth in paragraphs (a) to (c) of subsection (2) of this section.*
- (7) *Changes to the rates set forth in this section and others, including those set out in paragraph (2)(d) of this section, shall be made by the commission through administrative regulation and shall be in an amount sufficient to maintain actuarial soundness of the fund in accordance with the annual actuarial study.*

- (8) *Reporting and payment of fees shall be made in accordance with administrative regulations promulgated by the commission. The commission may request and review documents and reports from the Kentucky Department for Natural Resources and the United States Office of Surface Mining Reclamation and Enforcement to verify production records submitted by permittees.*
- (9) *Upon the receipt of notification from the commission that a permittee is in arrearage in the payment of any fees assessed to a permit, the cabinet shall forthwith suspend the permit. A suspension of a permit under this subsection may be appealed pursuant to the hearing provisions of KRS 350.0301.*
- (10) *A permit suspended by the cabinet under subsection (9) of this section shall have that suspension immediately lifted upon notification by the commission that the arrearage has been paid in full by the permittee.*
- (11) *Penalties collected pursuant to KRS 350.990(1) in excess of eight hundred thousand dollars (\$800,000) in any fiscal year shall be deposited in the following manner:*
- (a) *Fifty percent (50%) shall be applied to the fund for purposes set forth in this chapter; and*
 - (b) *Fifty percent (50%) shall be applied to the abandoned mine land supplemental fund established in KRS 350.139.*
- (12) *Any person who considers himself or herself to be aggrieved by any determination made by the commission under Sections 1 to 8 of this Act shall have all of the rights and remedies provided in KRS 350.0301.*

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

- (1) *Bonds for permits covered by the fund forfeited after January 1, 2014, in accordance with KRS 350.130(1) shall be placed in the fund. The commission, its members, and employees shall not be named a party to any forfeiture action.*
- (2) *Whenever the bond for a permit covered by the fund is forfeited by the cabinet, and a cost estimate prepared by the cabinet indicates the forfeited bond is insufficient to reclaim the permit to the requirements of this chapter, the cabinet shall first use any outstanding permit-specific performance bond for reclamation on the forfeited permit. Any additional moneys necessary to reclaim the permit area to the standards of this chapter shall be withdrawn from the reclamation guaranty fund upon request by the cabinet to the extent that moneys exist in the fund.*
- (3) *Within seven (7) days following receipt of a request for payment of funds by the cabinet, the executive director of the fund shall pay to the cabinet the sum requested not to exceed the estimated reclamation cost subject to the limitations set forth in subsection (2) of this section.*

➔Section 9. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
4. Department of Law.

- (a) Attorney General.
 - 5. Department of the Treasury.
 - (a) Treasurer.
 - 6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
 - 7. Auditor of Public Accounts.
- II. Program cabinets headed by appointed officers:
- 1. Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Office of Drug Control Policy.
 - (g) Office of Legal Services.
 - (h) Office of the Kentucky State Medical Examiner.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Office of Legislative and Intergovernmental Services.
 - (l) Office of Management and Administrative Services.
 - (m) Office of Investigations.
 - (n) Department for Public Advocacy.
 - 2. Education and Workforce Development Cabinet:
 - (a) Office of the Secretary.
 - 1. Governor's Scholars Program.
 - (b) Office of Legal and Legislative Services.
 - 1. Client Assistance Program.
 - (c) Office of Communication.
 - (d) Office of Budget and Administration.
 - 1. Division of Human Resources.
 - 2. Division of Administrative Services.
 - 3. Division of Technology Services.
 - (e) Office of Educational Programs.
 - (f) Board of Directors for the Center for School Safety.
 - (g) Council on Postsecondary Education.
 - 1. Foundation for Adult Education.
 - (h) Department of Education.
 - 1. Kentucky Board of Education.

- (i) Department for Libraries and Archives.
 - (j) Department of Workforce Investment.
 - 1. Office for the Blind.
 - 2. Office of Vocational Rehabilitation.
 - 3. Office of Career and Technical Education.
 - 4. Office of Employment and Training.
 - (k) Foundation for Workforce Development.
 - (l) Kentucky Office for the Blind State Rehabilitation Council.
 - (m) Kentucky Technical Education Personnel Board.
 - (n) Kentucky Workforce Investment Board.
 - (o) Statewide Council for Vocational Rehabilitation.
 - (p) Statewide Independent Living Council.
 - (q) Unemployment Insurance Commission.
 - (r) Education Professional Standards Board.
 - 1. Division of Educator Preparation.
 - 2. Division of Certification.
 - 3. Division of Professional Learning and Assessment.
 - 4. Division of Legal Services.
 - (s) Kentucky Commission on the Deaf and Hard of Hearing.
 - (t) Kentucky Educational Television.
 - (u) Kentucky Environmental Education Council.
3. Energy and Environment Cabinet:
- (a) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.
 - 2. Office of General Counsel.
 - a. Environmental Protection Legal Division.
 - 3. Office of Administrative Hearings.
 - 4. Mine Safety Review Commission.
 - 5. Kentucky State Nature Preserves Commission.
 - 6. Kentucky Environmental Quality Commission.
 - 7. Kentucky Public Service Commission.
 - (b) Department for Environmental Protection.
 - 1. Office of the Commissioner.
 - 2. Division for Air Quality.
 - 3. Division of Water.
 - 4. Division of Environmental Program Support.
 - 5. Division of Waste Management.
 - 6. Division of Enforcement.
 - 7. Division of Compliance Assistance.

- (c) Department for Natural Resources.
 - 1. Office of the Commissioner.
 - 2. Division of Technical and Administrative Support.
 - 3. Division of Mine Permits.
 - 4. Division of Mine Reclamation and Enforcement.
 - 5. Division of Abandoned Mine Lands.
 - 6. Division of Oil and Gas.
 - 7. Office of Mine Safety and Licensing.
 - 8. Division of Forestry.
 - 9. Division of Conservation.
 - 10. Office of the Reclamation Guaranty Fund.**
- (d) Department for Energy Development and Independence.
 - 1. Division of Efficiency and Conservation.
 - 2. Division of Renewable Energy.
 - 3. Division of Biofuels.
 - 4. Division of Energy Generation Transmission and Distribution.
 - 5. Division of Carbon Management.
 - 6. Division of Fossil Energy Development.
- 4. Public Protection Cabinet.
 - (a) Office of the Secretary.
 - 1. Office of Communications and Public Outreach.
 - 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
 - (b) Crime Victims Compensation Board.
 - (c) Board of Claims.
 - (d) Kentucky Board of Tax Appeals.
 - (e) Kentucky Boxing and Wrestling Authority.
 - (f) Kentucky Horse Racing Commission.
 - 1. Division of Licensing.
 - 2. Division of Incentives and Development.
 - 3. Division of Veterinary Services.
 - 4. Division of Security and Enforcement.
 - (g) Department of Alcoholic Beverage Control.
 - 1. Division of Distilled Spirits.
 - 2. Division of Malt Beverages.

3. Division of Enforcement.
 - (h) Department of Charitable Gaming.
 1. Division of Licensing and Compliance.
 2. Division of Enforcement.
 - (i) Department of Financial Institutions.
 1. Division of Depository Institutions.
 2. Division of Non-Depository Institutions.
 3. Division of Securities.
 - (j) Department of Housing, Buildings and Construction.
 1. Division of Fire Prevention.
 2. Division of Plumbing.
 3. Division of Heating, Ventilation, and Air Conditioning.
 4. Division of Building Code Enforcement.
 - (k) Department of Insurance.
 1. Property and Casualty Division.
 2. Health and Life Division.
 3. Division of Financial Standards and Examination.
 4. Division of Agent Licensing.
 5. Division of Insurance Fraud Investigation.
 6. Consumer Protection Division.
 7. Division of Kentucky Access.
 - (l) Office of Occupations and Professions.
5. Labor Cabinet.
- (a) Office of the Secretary.
 1. Division of Management Services.
 2. Office of General Counsel.
 - (b) Office of General Administration and Program Support for Shared Services.
 1. Division of Human Resource Management.
 2. Division of Fiscal Management.
 3. Division of Budgets.
 4. Division of Information Services.
 - (c) Office of Inspector General for Shared Services.
 - (d) Department of Workplace Standards.
 1. Division of Employment Standards, Apprenticeship, and Mediation.
 2. Division of Occupational Safety and Health Compliance.
 3. Division of Occupational Safety and Health Education and Training.
 4. Division of Workers' Compensation Funds.
 - (e) Department of Workers' Claims.
 1. Office of General Counsel for Workers' Claims.

2. Office of Administrative Law Judges.
 3. Division of Claims Processing.
 4. Division of Security and Compliance.
 5. Division of Information and Research.
 6. Division of Ombudsman and Workers' Compensation Specialist Services.
 7. Workers' Compensation Board.
 8. Workers' Compensation Advisory Council.
 9. Workers' Compensation Nominating Commission.
 - (f) Workers' Compensation Funding Commission.
 - (g) Kentucky Labor-Management Advisory Council.
 - (h) Occupational Safety and Health Standards Board.
 - (i) Prevailing Wage Review Board.
 - (j) Apprenticeship and Training Council.
 - (k) State Labor Relations Board.
 - (l) Employers' Mutual Insurance Authority.
 - (m) Kentucky Occupational Safety and Health Review Commission.
6. Transportation Cabinet:
- (a) Department of Highways.
 1. Office of Project Development.
 2. Office of Project Delivery and Preservation.
 3. Office of Highway Safety.
 4. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Aviation.
 - (d) Department of Rural and Municipal Aid.
 1. Office of Local Programs.
 2. Office of Rural and Secondary Roads.
 - (e) Office of the Secretary.
 1. Office of Public Affairs.
 2. Office for Civil Rights and Small Business Development.
 3. Office of Budget and Fiscal Management.
 4. Office of Inspector General.
 - (f) Office of Support Services.
 - (g) Office of Transportation Delivery.
 - (h) Office of Audits.
 - (i) Office of Human Resource Management.
 - (j) Office of Information Technology.
 - (k) Office of Legal Services.
7. Cabinet for Economic Development:

- (a) Office of Administration and Support.
 - (b) Department for New Business Development.
 - (c) Department of Financial Incentives.
 - (d) Department for Existing Business Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
 - (g) Office of Research and Information Technology.
 - (h) Department of Commercialization and Innovation.
 - (i) Office of Legal Services.
 - (j) Commission on Small Business Advocacy.
8. Cabinet for Health and Family Services:
- (a) Office of the Secretary.
 - (b) Office of Health Policy.
 - (c) Office of Legal Services.
 - (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.
 - (g) Office of Policy and Budget.
 - (h) Office of Human Resource Management.
 - (i) Office of Administrative and Technology Services.
 - (j) Department for Public Health.
 - (k) Department for Medicaid Services.
 - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
 - (m) Department for Aging and Independent Living.
 - (n) Department for Community Based Services.
 - (o) Department for Income Support.
 - (p) Department for Family Resource Centers and Volunteer Services.
 - (q) Kentucky Commission on Community Volunteerism and Service.
 - (r) Kentucky Commission for Children with Special Health Care Needs.
 - (s) Governor's Office of Electronic Health Information.
9. Finance and Administration Cabinet:
- (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Office of Policy and Audit.
 - (f) Department for Facilities and Support Services.
 - (g) Department of Revenue.
 - (h) Commonwealth Office of Technology.

- (i) State Property and Buildings Commission.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - (k) Kentucky Employees Retirement Systems.
 - (l) Commonwealth Credit Union.
 - (m) State Investment Commission.
 - (n) Kentucky Housing Corporation.
 - (o) Kentucky Local Correctional Facilities Construction Authority.
 - (p) Kentucky Turnpike Authority.
 - (q) Historic Properties Advisory Commission.
 - (r) Kentucky Tobacco Settlement Trust Corporation.
 - (s) Kentucky Higher Education Assistance Authority.
 - (t) Kentucky River Authority.
 - (u) Kentucky Teachers' Retirement System Board of Trustees.
 - (v) Executive Branch Ethics Commission.
10. Tourism, Arts and Heritage Cabinet:
- (a) Kentucky Department of Travel and Tourism.
 - (1) Division of Tourism Services.
 - (2) Division of Marketing and Administration.
 - (3) Division of Communications and Promotions.
 - (b) Kentucky Department of Parks.
 - (1) Division of Information Technology.
 - (2) Division of Human Resources.
 - (3) Division of Financial Operations.
 - (4) Division of Facilities Management.
 - (5) Division of Facilities Maintenance.
 - (6) Division of Customer Services.
 - (7) Division of Recreation.
 - (8) Division of Golf Courses.
 - (9) Division of Food Services.
 - (10) Division of Rangers.
 - (11) Division of Resort Parks.
 - (12) Division of Recreational Parks and Historic Sites.
 - (c) Department of Fish and Wildlife Resources.
 - (1) Division of Law Enforcement.
 - (2) Division of Administrative Services.
 - (3) Division of Engineering.
 - (4) Division of Fisheries.
 - (5) Division of Information and Education.
 - (6) Division of Wildlife.

- (7) Division of Public Affairs.
- (d) Kentucky Horse Park.
 - (1) Division of Support Services.
 - (2) Division of Buildings and Grounds.
 - (3) Division of Operational Services.
- (e) Kentucky State Fair Board.
 - (1) Office of Administrative and Information Technology Services.
 - (2) Office of Human Resources and Access Control.
 - (3) Division of Expositions.
 - (4) Division of Kentucky Exposition Center Operations.
 - (5) Division of Kentucky International Convention Center.
 - (6) Division of Public Relations and Media.
 - (7) Division of Venue Services.
 - (8) Division of Personnel Management and Staff Development.
 - (9) Division of Sales.
 - (10) Division of Security and Traffic Control.
 - (11) Division of Information Technology.
 - (12) Division of the Louisville Arena.
 - (13) Division of Fiscal and Contract Management.
 - (14) Division of Access Control.
- (f) Office of the Secretary.
 - (1) Office of Finance.
 - (2) Office of Research and Administration.
 - (3) Office of Governmental Relations and Tourism Development.
 - (4) Office of the Sports Authority.
 - (5) Kentucky Sports Authority.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.
- (k) Office of Capital Plaza Operations.
- (l) Office of Arts and Cultural Heritage.
- (m) Kentucky African-American Heritage Commission.
- (n) Kentucky Foundation for the Arts.
- (o) Kentucky Humanities Council.
- (p) Kentucky Heritage Council.
- (q) Kentucky Arts Council.
- (r) Kentucky Historical Society.
 - (1) Division of Museums.

- (2) Division of Oral History and Educational Outreach.
 - (3) Division of Research and Publications.
 - (4) Division of Administration.
 - (s) Kentucky Center for the Arts.
 - (1) Division of Governor's School for the Arts.
 - (t) Kentucky Artisans Center at Berea.
 - (u) Northern Kentucky Convention Center.
 - (v) Eastern Kentucky Exposition Center.
11. Personnel Cabinet:
- (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Governmental Services Center.
 - (h) Department of Employee Insurance.
 - (i) Office of Diversity and Equality.
 - (j) Center of Strategic Innovation.
- III. Other departments headed by appointed officers:
- 1. Department of Military Affairs.
 - 2. Department for Local Government.
 - 3. Kentucky Commission on Human Rights.
 - 4. Kentucky Commission on Women.
 - 5. Department of Veterans' Affairs.
 - 6. Kentucky Commission on Military Affairs.
 - 7. Office of Minority Empowerment.
 - 8. Governor's Council on Wellness and Physical Activity.
- ➔Section 10. KRS 350.595 is amended to read as follows:
- (1) An applicant who desires to remine property which is classified as abandoned mine land under KRS 350.560 may apply to the **Reclamation Guaranty Fund Commission established in Section 3 of this Act**~~[Bond Pool Commission established in KRS 350.705]~~ for inclusion under the Abandoned Mine Land Enhancement Program. The~~[Bond Pool]~~ commission may provide coverage under the bond pool fund **established pursuant to Section 2 of this Act** not to exceed fifty percent (50%) of the bond amount which the cabinet determines under KRS 350.060 is necessary for the abandoned mine land.
 - (2) When the bond required for the abandoned mine land under KRS 350.060 is increased or reduced, or is released in whole or in part, the coverage provided by the bond pool shall be proportionately increased or reduced.
 - (3) In the event of bond forfeiture on the property, moneys from the bond pool fund shall be used to supplement the forfeited bond~~[as provided in KRS 350.745]~~.
- ➔Section 11. KRS 350.990 is amended to read as follows:

- (1) Any permittee, person, or operator who violates any of the provisions of this chapter or administrative regulations promulgated pursuant thereto or who fails to perform the duties imposed by these provisions, except the refusal or failure to obtain a permit or other authorization as provided in this chapter, or who violates any determination or order issued pursuant to the provisions of this chapter, may be liable to a civil penalty of not more than five thousand dollars (\$5,000) for the violation, and an additional civil penalty of not more than five thousand dollars (\$5,000) for each day during which the violation continues, and in addition, may be enjoined from continuing the violations provided in this section. Any permittee, operator, or person who fails to abate a violation noted in a notice of noncompliance or an order for immediate compliance and cessation within the time period prescribed for the abatement shall be assessed a civil penalty of not less than seven hundred fifty dollars (\$750) for each day during which the violation continues. Any person issued an order pursuant to KRS 350.130(4) shall be assessed a civil penalty of not more than five thousand dollars (\$5,000) for each violation cited in the underlying notice of noncompliance issued therewith. No separate civil penalty shall be assessed for the order issued pursuant to KRS 350.130(4). Each day of continuing violation may be deemed a separate violation for purposes of penalty assessment. The cabinet shall develop a method for calculating monetary penalties and shall promulgate it as an administrative regulation. The secretary or a designated representative, upon his or her own initiative or upon written request received within fifteen (15) days after the cabinet mails its proposed penalty assessment, may waive the use of the method for calculating monetary penalties if he or she determines that, taking into account exceptional factors present in the particular case, the penalty is demonstrably unjust. The basis for every waiver shall be fully explained and documented in the records of the case. If the secretary or his or her designated representative waives the use of the formula, he or she shall determine the appropriate penalty upon consideration of the permittee's history of previous violations at the particular surface coal mining operation, the seriousness of the violation, whether the permittee was negligent, and the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification of the violation. The penalties shall be recoverable in an action brought in the name of the Commonwealth of Kentucky by the cabinet. The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil and injunctive actions instituted by the cabinet for the enforcement of the provisions of this chapter or the orders and administrative regulations of the cabinet promulgated pursuant thereto. All sums recovered shall be placed in the State Treasury, except those moneys collected in excess of eight hundred thousand dollars (\$800,000) in any fiscal year shall be deposited **fifty percent (50%) in the reclamation guaranty**~~[bond pool]~~ fund for purposes set forth in KRS 350.595 and **Sections 1 to 8 of this Act**~~[KRS 350.700 to 350.755 until the fund reaches sixteen million dollars (\$16,000,000) or a higher amount as may be established by the most recent actuarial study, after which excess money collected shall be deposited fifty percent (50%) to the bond pool fund] and fifty percent (50%) to the supplemental fund established under KRS 350.139(1), and used for the purposes of that section.~~~~[If the bond pool fund falls below sixteen million dollars (\$16,000,000) or a higher amount as may be established by the most recent actuarial study, all excess moneys shall be deposited in the bond pool fund until that fund reaches sixteen million dollars (\$16,000,000) or a higher amount as may be established by the most recent actuarial study.]~~ All moneys previously deposited in the abandoned mine land enhancement fund shall be redeposited in the **reclamation guaranty**~~[bond pool]~~ fund.
- (2) Any person or operator who engages in surface coal mining operations without first securing a permit, as provided in KRS 350.060, or any person who engages in coal exploration operations, exclusive of core drilling, without proper authorization, as required by the cabinet pursuant to KRS 350.057 or administrative regulations promulgated pursuant thereto, or any person or operator who engages in other mining operations, without proper authorization as required by this chapter or administrative regulations promulgated pursuant thereto, shall be liable to a civil penalty for damages to the Commonwealth of not less than five thousand dollars (\$5,000) nor more than twenty-five thousand dollars (\$25,000) and in addition, may be enjoined from continuing the violations. Each day shall constitute a separate violation. In addition to the foregoing penalties, any permittee, person, or operator who fails to abate a violation of KRS 350.060 or KRS 350.029 or KRS 350.057, as noted in a notice of noncompliance or an order for immediate compliance and cessation within the time period prescribed for the abatement, shall be assessed an additional civil penalty of not less than seven hundred fifty dollars (\$750) for each day during which the violation continues. However, the penalties provided in subsection (1) of this section shall apply in lieu of the penalties provided in this subsection where an operator or permittee through inadvertence has exceeded the boundaries or expiration date of the permit in effect at that time.
- (3) The cabinet shall bring an action for the recovery of penalties and bring an action for a restraining order, temporary or permanent injunction, against any permittee, operator, or person violating or threatening to violate any of the provisions of this chapter or violating or threatening to violate any order or determination issued pursuant to the provisions of this chapter. The Franklin Circuit Court shall hold concurrent jurisdiction

and venue of all civil and injunctive actions instituted by the cabinet for the enforcement of the provisions of this chapter or the orders and administrative regulations of the cabinet promulgated pursuant thereto.

- (4) Any permittee, operator, or person who knowingly and willfully violates any of the provisions of this chapter, except as provided in subsection (5) of this section, or any determination or order issued pursuant to the sections of this chapter which have become final, shall be guilty of a Class A misdemeanor. Each day on which the violation occurs may constitute a separate offense.
- (5)
 - (a) Any person or operator who, in violation of KRS 350.060(1)(a) willfully and knowingly engages in surface coal mining operations without first obtaining a permit from the cabinet, or any person or operator who willfully and knowingly engages in coal exploration operations, exclusive of core drilling, without proper authorization, as required by the cabinet pursuant to KRS 350.057 or administrative regulations promulgated pursuant thereto, or any person or operator who willfully and knowingly engages in other mining operations without proper authorization as required by this chapter or administrative regulations promulgated pursuant thereto, with the intent to violate the laws, shall be guilty of a Class D felony.
 - (b) Any person or operator who in violation of KRS 350.060(1)(b) willfully and knowingly receives, transports, sells, conveys, transfers, trades, exchanges, donates, purchases, delivers, or in any way derives benefit from coal removed from any surface mining operations conducted in violation of KRS 350.060(1)(a) or 350.057 shall be guilty of a Class D felony.
- (6) Any person who violates any of the provisions of KRS 350.600 or administrative regulations promulgated pursuant thereto shall be subject to civil penalties of not more than twenty-five thousand dollars (\$25,000). Each day of continuing violation shall be deemed a separate violation.
- (7) Any permittee, operator, or person who knowingly makes any false statement, representation, or certification, or knowingly fails to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained by the cabinet, shall upon conviction be guilty of a Class A misdemeanor.
- (8) Except as permitted by law, any permittee, operator, or person who willfully and knowingly resists, prevents, impedes, or interferes with the secretary or other personnel of the cabinet in the performance of duties pursuant to this chapter shall be guilty of a Class A misdemeanor.
- (9) When a corporate permittee violates any provision of this chapter or administrative regulation promulgated pursuant thereto or fails or refuses to comply with any final order issued by the secretary, any director, officer, or agent of the corporation who willfully and knowingly authorized, ordered, or carried out the violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment as may be imposed upon a person pursuant to this section.
- (10) Upon notice by the secretary that any surety has failed to comply with the provisions of KRS 350.032(3), the commissioner of the Kentucky Department of Insurance shall revoke the surety's certificate of authority to conduct insurance business within the Commonwealth of Kentucky.
- (11) The cabinet, upon written request by any permittee, person, or operator subject to any penalty assessment under this section and pursuant to procedures, if any, set forth by administrative regulation and after consultation with the local county fiscal court, may allow as an alternative to the payment of any assessed penalty under this section the performance of in-kind reclamation, environmental rehabilitation, or similar action to correct environmental pollution. The in-kind work shall not substitute for those remedial measures mandated by the cabinet for the correction of any violations. The estimated cost of the in-kind work shall be greater than the penalty assessment. The cabinet's Division of Abandoned Mine Lands shall have the authority to approve proposed in-kind projects and to recommend projects to the cabinet, and shall determine whether the estimated cost of the in-kind work exceeds the penalty assessment. For the purposes of this subsection, the cost of the in-kind work shall include only those expenditures for actual on-site reclamation or rehabilitation work, including direct equipment, personnel, and material cost, but excluding administrative overhead or transportation costs. Failure to perform the in-kind work as agreed upon by the person or operator subject to the penalty assessment shall reinstate the liability of the person, permittee, or operator for the full amount of the assessed penalty. The cabinet may prepare and promulgate administrative regulations as are necessary to implement and administer the provisions of this subsection.

➔Section 12. The following KRS sections are repealed:

350.700 Bond pool fund established.

- 350.705 Bond Pool Commission.
- 350.710 Powers of commission.
- 350.720 Bond pool -- Criteria -- Compliance records.
- 350.725 Membership fee -- Tonnage fee.
- 350.730 Tonnage fee suspension or reinstatement.
- 350.735 Permit-specific penal bond.
- 350.740 Permit issuance.
- 350.745 Payments from fund for reclamation.
- 350.750 Revocation of membership in bond pool.
- 350.755 Grounds for refusal of permit.

→Section 13. Upon the effective date of this Act, the assets and liabilities of the voluntary bond pool established pursuant to KRS 350.700 to KRS 350.755, and repealed by this Act, shall be immediately transferred to the Kentucky Reclamation Guaranty Fund. Any records, files, and documents associated with the activities of the voluntary bond pool shall be transferred to the Office of the Reclamation Guaranty Fund. The affairs of the voluntary bond pool shall be wound up, and the cabinet shall have disposition over placement or transfer of any personnel of the voluntary bond pool. Nothing contained in Sections 1 to 8 of this Act shall impair any existing contract.

→Section 14. Whereas the implementation of the Kentucky Reclamation Guaranty Fund is essential in Kentucky rectifying inadequacies in the Commonwealth's performance bonding program identified as in noncompliance by the federal Office of Surface Mining, Reclamation and Enforcement, an emergency is declared to exist, and the provisions of this Act shall take effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor March 22, 2013.

CHAPTER 79

(HB 69)

AN ACT relating to domestic relations and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

- Section 1. KRS 403.320 is amended to read as follows:
- (1) A parent not granted custody of the child is entitled to reasonable visitation rights unless the court finds, after a hearing, that visitation would endanger seriously the child's physical, mental, moral, or emotional health. Upon request of either party, the court shall issue orders which are specific as to the frequency, timing, duration, conditions, and method of scheduling visitation and which reflect the development age of the child.
 - (2) If domestic violence and abuse, as defined in KRS 403.720, has been alleged, the court shall, after a hearing, determine the visitation arrangement, if any, which would not endanger seriously the child's or the custodial parent's physical, mental, or emotional health.
 - (3) The court may modify an order granting or denying visitation rights whenever modification would serve the best interests of the child; but the court shall not restrict a parent's visitation rights unless it finds that the visitation would endanger seriously the child's physical, mental, moral, or emotional health.
 - (4) (a) ***Except as provided in paragraph (b) of this subsection, any court-ordered modification of a child visitation decree, based in whole or in part on:***
 1. ***The active duty of a parent or a de facto custodian as a regular member of the United States Armed Forces deployed outside the United States; or***
 2. ***Any federal active duty of a parent or a de facto custodian as a member of a state National Guard or a Reserve component;***

shall be temporary and shall revert back to the previous child visitation decree at the end of the deployment outside the United States or the federal active duty, as appropriate.

- (b) *A parent or de facto custodian identified in paragraph (a) of this subsection may consent to a modification of a child visitation decree that continues past the end of the deployment outside the United States or the federal active duty, as appropriate.*
- (5) *Under circumstances where the court finds, by clear and convincing evidence, it is in the best interest of the child, any relative, by blood or affinity, that was previously granted temporary custody pursuant to the provisions of KRS 620.090 may be granted reasonable noncustodial parental visitation rights by a Circuit Court or Family Court as an intervenor or by original action. Once the relative has been granted visitation pursuant to this subsection, those rights shall not be adversely affected by the termination of custodial or parental rights of an individual who has permanent custody of the child unless the court determines that termination of the visitation rights are in the best interests of the child. The action shall be brought in the county in which the temporary or permanent custody order was entered or where the child resides.*

➔ SECTION 2. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "safe child drop-off location" means any public building owned, leased, or occupied by the Commonwealth, or by any city or county within the Commonwealth, to which access is limited and security measures, including metal detectors, are in place.*
- (2) *Any separation agreement, decree of divorce, temporary custody order, or post-decree order may require that exchanges of child custody take place in a safe child drop-off location at a point past the metal detectors and other security measures.*
- (3) *Public buildings owned, leased, or occupied by the Commonwealth, or by any city or county within the Commonwealth, to which access is limited and in which security measures, including metal detectors, are in place, may allow access to spaces otherwise open to the public for use as a safe child drop-off location, but no such building shall be required to make any other accommodation for such use.*

➔ Section 3. KRS 610.125 is amended to read as follows:

- (1) If a child has been removed from the home and placed in the custody of the Department of Juvenile Justice or the cabinet, a judge of the District Court shall conduct a permanency hearing no later than twelve (12) months after the date the child is considered to have entered foster care, and every twelve (12) months thereafter if custody and out-of-home placement continues, to determine the future status of the child. For purposes of this section, a child shall be considered to have entered foster care on the earlier of the date of the first judicial finding that the child has been subjected to child abuse or neglect or the date that is sixty (60) days after the date on which the child is removed from the home.

The court shall address the following areas:

- (a) If parental rights have not been terminated, whether the child should be returned to the parent;
- (b) Whether the child should be placed for adoption;
- (c) Whether the child should be placed with a permanent custodian; and
- (d) Whether the cabinet has documented a compelling reason that it is in the best interest of the child to be placed in another planned permanent living arrangement other than those listed in this subsection.
- (2) If the cabinet or the Department of Juvenile Justice determines that reasonable efforts to reunify the child with the child's parent will not be made, the cabinet or Department of Juvenile Justice shall file a case permanency plan as defined by KRS 620.230 or case progress report with the court that documents the reasons for not making reasonable efforts. The court shall hold a permanency hearing within thirty (30) days of the filing of the cabinet's or Department of Juvenile Justice's plan or report with the Court.
- (3) The Department of Juvenile Justice or the cabinet shall inform the court not less than sixty (60) days prior to the expiration of the time in which the hearing shall be held and within the time established in subsection (1) of this section, and shall further inform the court of the name and address of the child's foster parents, preadoptive parents, or relatives providing care to the child; court-appointed special advocate; and foster care review board member assigned to the case. For the hearing to be held pursuant to subsection (2) of this section, the names and addresses of the persons identified in this subsection shall be provided in the case permanency plan or case progress report to be filed with the court. The court shall set a time for the hearing and notify the child's parent, foster parents, preadoptive parents, or relatives providing care to the child *and who also shall*

have a right to be heard; court-appointed special advocate; foster care review board member assigned to the case; attorney for the child; attorney for the parent, if any; and the Department of Juvenile Justice or the cabinet.

- (4) The Department of Juvenile Justice or the cabinet shall present evidence to the court concerning the care and progress of the child since the last permanency hearing, including the following:
- (a) The length of time the child has been committed to the Department of Juvenile Justice or the cabinet;
 - (b) The number, location, and date for each placement during the total period of the child's commitment;
 - (c) A description of the services and assistance provided to the parent or arranged by the Department of Juvenile Justice or the cabinet since the last case permanency plan or case progress report, and the results achieved;
 - (d) A description of the efforts and progress of the child's parent since the last case permanency plan and case progress report, including the number and dates of parental visits and the extent, quality, and frequency of the parent's communication with the child;
 - (e) The familial and institutional barriers to:
 1. Returning the child to the home;
 2. Ending the commitment of the child to the Department of Juvenile Justice or the cabinet; and
 3. Delivery of appropriate services needed by the child;
 - (f) Recommendations of services needed to make the transition from out-of-home care to independent living for children who have reached the age of sixteen (16) years;
 - (g) An evaluation of the child's current placement and services provided to the child;
 - (h) Recommendations for necessary services required to terminate the commitment of the child to the cabinet, to return the child home, or to facilitate another permanent placement; and
 - (i) Recommendations as to the permanency goal for the child.
- (5) (a) The child's parent, foster parent, preadoptive parent, relative providing care to the child ***shall have the right to be heard; and***
- (b) ~~The~~ attorney for the parent, attorney for the child, or court-appointed special advocate, if deemed appropriate by the court, may present any evidence relevant to the determination of a permanency goal for the child.
- (6) Upon conclusion of the hearing the court shall make a written order determining the permanency plan for the child.
- (7) If necessary, the case may be redocketed for further review of the progress toward the implementation of the permanency plan established at the permanency hearing.

➔Section 4. KRS 610.127 is amended to read as follows:

Reasonable efforts as defined in KRS 620.020 shall not be required to be made with respect to a parent of a child if a court of competent jurisdiction determines that the parent has:

- (1) Subjected the child to aggravated circumstances as defined in KRS 600.020;
- (2) Been convicted in a criminal proceeding of having caused or contributed to the death of another child of the parent;
- (3) Committed a felony assault that resulted in serious bodily injury to the child or to another child of the parent;
- (4) Had their parental rights to another child terminated involuntarily;
- (5) Engaged in a pattern of conduct due to alcohol or other drug abuse as defined in KRS 222.005 for a period of not less than ninety (90) days that has rendered the parent incapable of caring for the immediate and ongoing needs of the child, and the parent has refused or failed to complete available treatment for alcohol or other drug abuse;
- (6) Mental illness as defined in KRS 202A.011 or is an individual with an intellectual disability as defined in KRS 202B.010 or other developmental disability as defined in KRS 387.510 that places the child at substantial risk

of physical or emotional injury even if the most appropriate and available services were provided to the parent for twelve (12) months;~~or~~

- (7) *Sexually abused the child or is required to register on a sex offender registry under 42 U.S.C. sec. 16913, the Adam Walsh Child Protection and Safety Act of 2006 Pub. L. No. 109-248; or*
- (8) Other circumstances in existence that make continuation or implementation of reasonable efforts to preserve or reunify the family inconsistent with the best interests of the child and with the permanency plan for the child.

➔SECTION 5. KRS 615.030 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

ARTICLE I

PURPOSE

The purpose of the Interstate Compact for the Placement of Children shall be to:

- (1) *Provide a process through which children subject to this compact are placed in safe and suitable homes in a timely manner;*
- (2) *Facilitate ongoing supervision of a placement, the delivery of services, and communication between the states;*
- (3) *Provide operating procedures that will ensure that children are placed in safe and suitable homes in a timely manner;*
- (4) *Provide for the promulgation and enforcement of administrative rules implementing the provisions of this compact and regulating the covered activities of the member states;*
- (5) *Provide for uniform data collection and information sharing between member states under this compact;*
- (6) *Promote coordination between this compact, the Interstate Compact for Juveniles, the Interstate Compact on Adoption and Medical Assistance, and other compacts affecting the placement of and which provide services to children otherwise subject to this compact;*
- (7) *Provide for a state's continuing legal jurisdiction and responsibility for placement and care of a child that it would have had if the placement were intrastate; and*
- (8) *Provide for the promulgation of guidelines, in collaboration with Indian tribes, for interstate cases involving Indian children as is or may be permitted by federal law.*

ARTICLE II

DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

- (1) *"Approved placement" means the public child placing agency in the receiving state has determined that the placement is both safe and suitable for the child.*
- (2) *"Assessment" means an evaluation of a prospective placement by a public child placing agency to determine whether the placement meets the individualized needs of the child, including but not limited to the child's safety and stability, health and well-being, and mental, emotional, and physical development. An assessment shall be only applicable to a placement by a public child placing agency.*
- (3) *"Child" means an individual who has not attained the age of eighteen (18).*
- (4) *"Certification" means to attest, declare, or sworn to before a judge or notary public.*
- (5) *"Default" means the failure of a member state to perform the obligations or responsibilities imposed upon it by this compact, the bylaws or rules of the Interstate Commission.*
- (6) *"Home Study" means an evaluation of a home environment conducted in accordance with the applicable requirements of the state in which the home is located, and documents the preparation and the suitability of the placement resource for placement of a child in accordance with the laws and requirements of the state in which the home is located.*
- (7) *"Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaskan native village as defined in section 3 (c) of the Alaska Native Claims Settlement Act at 43 U.S.C. sec. 1602(c).*

- (8) *"Interstate Commission for the Placement of Children" means the commission that is created under Article VIII of this compact and which is generally referred to as the Interstate Commission.*
- (9) *"Jurisdiction" means the power and authority of a court to hear and decide matters.*
- (10) *"Legal Risk Placement" or "Legal Risk Adoption" means a placement made preliminary to an adoption where the prospective adoptive parents acknowledge in writing that a child can be ordered returned to the sending state or the birth mother's state of residence, if different from the sending state. A final decree of adoption shall not be entered in any jurisdiction until all required consents are obtained or are dispensed with in accordance with applicable law.*
- (11) *"Member state" means a state that has enacted this compact.*
- (12) *"Noncustodial parent" means a person who, at the time of the commencement of court proceedings in the sending state, does not have sole legal custody of the child or has joint legal custody of a child, and who is not the subject of allegations or findings of child abuse or neglect.*
- (13) *"Nonmember state" means a state which has not enacted this compact.*
- (14) *"Notice of residential placement" means information regarding a placement into a residential facility provided to the receiving state including, but not limited to the name, date, and place of birth of the child, the identity and address of the parent or legal guardian, evidence of authority to make the placement, and the name and address of the facility in which the child will be placed. Notice of residential placement shall also include information regarding a discharge and any unauthorized absence from the facility.*
- (15) *"Placement" means the act by a public or private child placing agency intended to arrange for the care or custody of a child in another state.*
- (16) *"Private child placing agency" means any private corporation, agency, foundation, institution, or charitable organization, or any private person or attorney that facilitates, causes, or is involved in the placement of a child from one state to another and that is not an instrumentality of the state or acting under color of state law.*
- (17) *"Provisional placement" means a determination made by the public child placing agency in the receiving state that the proposed placement is safe and suitable, and, to the extent allowable, the receiving state has temporarily waived its standards or requirements otherwise applicable to prospective foster or adoptive parents so as to not delay the placement. Completion of the receiving state requirements regarding training for prospective foster or adoptive parents shall not delay an otherwise safe and suitable placement.*
- (18) *"Public child placing agency" means any government child welfare agency or child protection agency or a private entity under contract with such an agency, regardless of whether they act on behalf of a state, county, municipality, or other governmental unit and which facilitates, causes, or is involved in the placement of a child from one state to another.*
- (19) *"Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought.*
- (20) *"Relative" means someone who is related to the child as a parent, step-parent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin, or a nonrelative with such significant ties to the child that they may be regarded as relatives as determined by the court in the sending state.*
- (21) *"Residential Facility" means a facility providing a level of care that is sufficient to substitute for parental responsibility or foster care, and is beyond what is needed for assessment or treatment of an acute condition. For purposes of the compact, residential facilities do not include institutions primarily educational in character, hospitals, or other medical facilities.*
- (22) *"Rule" means a written directive, mandate, standard, or principle issued by the Interstate Commission promulgated pursuant to Article XI of this compact that is of general applicability and that implements, interprets, or prescribes a policy or provision of the compact. "Rule" has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.*
- (23) *"Sending state" means the state from which the placement of a child is initiated.*
- (24) *"Service member's permanent duty station" means the military installation where an active duty Armed Services member is currently assigned and is physically located under competent orders that do not specify the duty as temporary.*

- (25) *"Service member's state of legal residence" means the state in which the active duty Armed Services member is considered a resident for tax and voting purposes.*
- (26) *"State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other territory of the United States.*
- (27) *"State court" means a judicial body of a state that is vested by law with responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency, or status offenses of individuals who have not attained the age of eighteen (18).*
- (28) *"Supervision" means monitoring provided by the receiving state once a child has been placed in a receiving state pursuant to this compact.*

ARTICLE III

APPLICABILITY

- (1) *Except as otherwise provided in subsection (2) of this Article, this compact shall apply to:*
- (a) *The interstate placement of a child subject to ongoing court jurisdiction in the sending state, due to allegations or findings that the child has been abused, neglected, or deprived as defined by the laws of the sending state, provided, however, that the placement of such a child into a residential facility shall only require notice of residential placement to the receiving state prior to placement;*
 - (b) *The interstate placement of a child adjudicated delinquent or unmanageable based on the laws of the sending state and subject to ongoing court jurisdiction of the sending state if:*
 1. *The child is being placed in a residential facility in another member state and is not covered under another compact; or*
 2. *The child is being placed in another member state and the determination of safety and suitability of the placement and services required is not provided through another compact; and*
 - (c) *The interstate placement of any child by a public child placing agency or private child placing agency as defined in this compact as a preliminary step to a possible adoption.*
- (2) *The provisions of this compact shall not apply to:*
- (a) *The interstate placement of a child in a custody proceeding in which a public child placing agency is not a party if the placement is not intended to effectuate an adoption;*
 - (b) *The interstate placement of a child with a nonrelative in a receiving state by a parent with the legal authority to make such a placement provided, however, that the placement is not intended to effectuate an adoption;*
 - (c) *The interstate placement of a child by one relative with the lawful authority to make such a placement directly with a relative in a receiving state;*
 - (d) *The placement of a child, not subject to subsection (1) of this Article, into a residential facility by his parent;*
 - (e) *The placement of a child with a noncustodial parent provided that:*
 1. *The noncustodial parent proves to the satisfaction of a court in the sending state a substantial relationship with the child;*
 2. *The court in the sending state makes a written finding that placement with the noncustodial parent is in the best interests of the child; and*
 3. *The court in the sending state dismisses its jurisdiction over the child's case;*
 - (f) *A child entering the United States from a foreign country for the purpose of adoption or leaving the United States to go to a foreign country for the purpose of adoption in that country;*
 - (g) *Cases in which a United States citizen child living overseas with his family, at least one of whom is in the United States Armed Services, and who is stationed overseas, is removed and placed in a state; or*

- (h) *The sending of a child by a public child placing agency or a private child placing agency for a visit as defined by the rules of the Interstate Commission.*
- (3) *For purposes of determining the applicability of this compact to the placement of a child with a family in the Armed Services, the public child placing agency or private child placing agency may choose the state of the service member's permanent duty station or the service member's declared legal residence.*
- (4) *Nothing in this compact shall be construed to prohibit the concurrent application of the provisions of this compact with other applicable interstate compacts including the Interstate Compact for Juveniles and the Interstate Compact on Adoption and Medical Assistance. The Interstate Commission may in cooperation with other interstate compact commissions having responsibility for the interstate movement, placement, or transfer of children, promulgate like rules to ensure the coordination of services, timely placement of children, and the reduction of unnecessary or duplicative administrative or procedural requirements.*

ARTICLE IV

JURISDICTION

- (1) *Except as provided in subsection (7) of this Article, concerning private and independent adoptions, the sending state shall retain jurisdiction over a child with respect to all matters of custody and disposition of the child which it would have had if the child had remained in the sending state. Such jurisdiction shall also include the power to order the return of the child to the sending state.*
- (2) *When an issue of child protection or custody is brought before a court in the receiving state, such court shall confer with the court of the sending state to determine the most appropriate forum for adjudication.*
- (3) *In cases that are before courts and subject to this compact, the taking of testimony for hearings before any judicial officer may occur in person or by telephone, audio-video conference, or such other means as approved by the rules of the Interstate Commission; and Judicial officers may communicate with other judicial officers and persons involved in the interstate process as may be permitted by their Canons of Judicial Conduct and any rules promulgated by the Interstate Commission.*
- (4) *In accordance with its own laws, the court in the sending state shall have authority to terminate its jurisdiction if:*
- (a) *The child is reunited with the parent in the receiving state who is the subject of allegations or findings of abuse or neglect, only with the concurrence of the public child placing agency in the receiving state;*
 - (b) *The child is adopted;*
 - (c) *The child reaches the age of majority under the laws of the sending state;*
 - (d) *The child achieves legal independence pursuant to the laws of the sending state;*
 - (e) *A guardianship is created by a court in the receiving state with the concurrence of the court in the sending state;*
 - (f) *An Indian tribe has petitioned for and received jurisdiction from the court in the sending state; or*
 - (g) *The public child placing agency of the sending state requests termination and has obtained the concurrence of the public child placing agency in the receiving the state.*
- (5) *When a sending state court terminates its jurisdiction, the receiving state child placing agency shall be notified.*
- (6) *Nothing in this article shall defeat a claim of jurisdiction by a receiving state court sufficient to deal with an act of truancy, delinquency, crime, or behavior involving a child as defined by the laws of the receiving state committed by the child in the receiving state which would be a violation of its laws.*
- (7) *Nothing in this article shall limit the receiving state's ability to take emergency jurisdiction for the protection of the child.*
- (8) *The substantive laws of the state in which an adoption will be finalized shall solely govern all issues relating to the adoption of the child and the court in which the adoption proceeding is filed shall have subject matter jurisdiction regarding all substantive issues relating to the adoption, except:*
- (a) *When the child is a ward of another court that established jurisdiction over the child prior to the placement;*

- (b) *When the child is in the legal custody of a public agency in the sending state; or*
 - (c) *When a court in the sending state has otherwise appropriately assumed jurisdiction over the child, prior to the submission of the request for approval of placement.*
- (9) *A final decree of adoption shall not be entered in any jurisdiction until the placement is authorized as an approved placement by the public child placing agency in the receiving state.*

ARTICLE V

PLACEMENT EVALUATIONS

- (1) *Prior to sending, bringing, or causing a child to be sent or brought into a receiving state, the public child placing agency shall provide a written request for assessment to the receiving state.*
- (2) *For placements by a private child placing agency, a child may be sent or brought, or caused to be sent or brought, into a receiving state, upon receipt and immediate review of the required content in a request for approval of a placement in both the sending and receiving state public child placing agency. The required content for a request for provisional approval shall include all of the following:*
 - (a) *A request for approval identifying the child, birth parents, the prospective adoptive parents, and the supervising agency, signed by the person requesting approval;*
 - (b) *The appropriate consents or relinquishments signed by the birth parents in accordance with the laws of the sending state or, where permitted, the laws of the state where the adoption will be finalized;*
 - (c) *Certification by a licensed attorney or other authorized agent that the consent or relinquishment is in compliance with the applicable laws of the sending state, or where permitted the laws of the state where finalization of the adoption will occur;*
 - (d) *A home study; and*
 - (e) *An acknowledgment of legal risk signed by the prospective adoptive parents.*
- (3) *The sending state and the receiving state may request additional information or documents prior to finalization of an approved placement, but they may not delay travel by the prospective adoptive parents with the child if the required content for approval has been submitted, received, and reviewed by the public child placing agency in both the sending state and the receiving state.*
- (4) *Approval from the public child placing agency in the receiving state for a provisional or approved placement shall be required as provided for in the rules of the Interstate Commission.*
- (5) *The procedures for making and the request for an assessment shall contain all information and be in such form as provided for in the rules of the Interstate Commission.*
- (6) *Upon receipt of a request from the public child welfare agency of the sending state, the receiving state shall initiate an assessment of the proposed placement to determine its safety and suitability. If the proposed placement is a placement with a relative, the public child placing agency of the sending state may request a determination of whether the placement qualifies as a provisional placement.*
- (7) *The public child placing agency in the receiving state may request, and shall be entitled to receive, supporting or additional information necessary to complete the assessment or approve the placement from the public child placing agency or the private child placing agency in the sending state.*
- (8) *The public child placing agency in the receiving state shall approve a provisional placement and complete or arrange for the completion of the assessment within the time frames established by the rules of the Interstate Commission.*
- (9) *For a placement by a private child placing agency, the sending state shall not impose any additional requirements to complete the home study that are not required by the receiving state, unless the adoption is finalized in the sending state.*
- (10) *The Interstate Commission may develop uniform standards for the assessment of the safety and suitability of interstate placements.*

ARTICLE VI

PLACEMENT AUTHORITY

- (1) *Except as provided in this compact no child subject to this compact shall be placed into a receiving state until approval for such placement is obtained.*
- (2) *If the public child placing agency in the receiving state does not approve the proposed placement then the child shall not be placed. The receiving state shall provide written documentation of any such determination in accordance with the rules promulgated by the Interstate Commission. Such determination shall not be subject to judicial review in the sending state.*
- (3) *If the proposed placement is not approved, any interested party shall have standing to seek an administrative review of the receiving state's determination.*
- (4) *The administrative review and any further judicial review associated with the determination shall be conducted in the receiving state pursuant to its applicable administrative procedures.*
- (5) *If a determination not to approve the placement of the child in the receiving state is overturned upon review, the placement shall be deemed approved, provided however that all administrative or judicial remedies have been exhausted or the time for such remedies has passed.*

ARTICLE VII

PLACING AGENCY RESPONSIBILITY

- (1) *For the interstate placement of a child made by a public child placing agency or state court:*
 - (a) *The public child placing agency in the sending state shall have financial responsibility for:*
 1. *The ongoing support and maintenance for the child during the period of the placement, unless otherwise provided for in the receiving state; and*
 2. *As determined by the public child placing agency in the sending state, services for the child beyond the public services for which the child is eligible in the receiving state; and*
 - (b) *The receiving state shall only have financial responsibility for:*
 1. *Any assessment conducted by the receiving state; and*
 2. *Supervision conducted by the receiving state at the level necessary to support the placement as agreed upon by the public child placing agencies of the receiving and sending state; and*
 - (c) *Nothing in this provision shall prohibit public child placing agencies in the sending state from entering into agreements with licensed agencies or persons in the receiving state to conduct assessments and provide supervision.*
- (2) *For the placement of a child by a private child placing agency preliminary to a possible adoption, the private child placing agency shall be:*
 - (a) *Legally responsible for the child during the period of placement as provided for in the law of the sending state until the finalization of the adoption; and*
 - (b) *Financially responsible for the child absent a contractual agreement to the contrary.*
- (3) *The public child placing agency in the receiving state shall provide timely assessments, as provided for in the rules of the Interstate Commission.*
- (4) *The public child placing agency in the receiving state shall provide, or arrange for the provision of, supervision and services for the child, including timely reports, during the period of the placement.*
- (5) *Nothing in this compact shall be construed as to limit the authority of the public child placing agency in the receiving state from contracting with a licensed agency or person in the receiving state for an assessment or the provision of supervision or services for the child or otherwise authorizing the provision of supervision or services by a licensed agency during the period of placement.*
- (6) *Each member state shall provide for coordination among its branches of government concerning the state's participation in, and compliance with, the compact and Interstate Commission activities, through the creation of an advisory council or use of an existing body or board.*
- (7) *Each member state shall establish a central state compact office, which shall be responsible for state compliance with the compact and the rules of the Interstate Commission.*

- (8) *The public child placing agency in the sending state shall oversee compliance with the provisions of the Indian Child Welfare Act, 25 U.S.C. sec. 1901 et seq., for placements subject to the provisions of this compact, prior to placement.*
- (9) *With the consent of the Interstate Commission, states may enter into limited agreements that facilitate the timely assessment and provision of services and supervision of placements under this compact.*

ARTICLE VIII

INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN

The member states hereby establish, by way of this compact, a commission known as the "Interstate Commission for the Placement of Children." The activities of the Interstate Commission may be the formation of public policy and shall be a discretionary state function. The Interstate Commission shall:

- (1) *Be a joint commission of the member states and shall have the responsibilities, powers, and duties set forth in this compact, and such additional powers as may be conferred upon it by subsequent concurrent action of the respective legislatures of the member states.*
- (2) *Consist of one commissioner from each member state who shall be appointed by the executive head of the state human services administration with ultimate responsibility for the child welfare program. The appointed commissioner shall have the legal authority to vote on policy related matters governed by this compact binding the state.*
 - (a) *Each member state represented at a meeting of the Interstate Commission shall be entitled to one vote;*
 - (b) *A majority of the member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission;*
 - (c) *A representative shall not delegate a vote to another member state; and*
 - (d) *A representative may delegate voting authority to another person from their state for a specified meeting.*
- (3) *In addition to the commissioners of each member state, the Interstate Commission shall include persons who are members of interested organizations as defined in the bylaws or rules of the Interstate Commission. Such members shall be ex officio and shall not be entitled to vote on any matter before the Interstate Commission.*
- (4) *Establish an executive committee which shall have the authority to administer the day-to-day operations and administration of the Interstate Commission. It shall not have the power to engage in rule making.*

ARTICLE IX

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

- (1) *To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact;*
- (2) *To provide for dispute resolution among member states;*
- (3) *To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, or actions;*
- (4) *To enforce compliance with this compact or the bylaws or rules of the Interstate Commission pursuant to Article XII;*
- (5) *Collect standardized data concerning the interstate placement of children subject to this compact as directed through its rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements;*
- (6) *To establish and maintain offices as may be necessary for the transacting of its business;*
- (7) *To purchase and maintain insurance and bonds;*
- (8) *To hire or contract for services of personnel or consultants as necessary to carry out its functions under the compact and establish personnel qualification policies, and rates of compensation;*

- (9) *To establish and appoint committees and officers including, but not limited to, an executive committee as required by Article X;*
- (10) *To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose thereof;*
- (11) *To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed;*
- (12) *To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;*
- (13) *To establish a budget and make expenditures;*
- (14) *To adopt a seal and bylaws governing the management and operation of the Interstate Commission;*
- (15) *To report annually to the legislatures, governors, the judiciary, and state advisory councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission;*
- (16) *To coordinate and provide education, training, and public awareness regarding the interstate movement of children for officials involved in such activity;*
- (17) *To maintain books and records in accordance with the bylaws of the Interstate Commission; and*
- (18) *To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.*

ARTICLE X

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

Section A. Bylaws

- (1) *Within twelve (12) months after the first Interstate Commission meeting, the Interstate Commission shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact.*
- (2) *The Interstate Commission's bylaws and rules shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.*

Section B. Meetings

- (1) *The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states shall call additional meetings.*
- (2) *Public notice shall be given by the Interstate Commission of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:*
 - (a) *Relate solely to the Interstate Commission's internal personnel practices and procedures;*
 - (b) *Disclose matters specifically exempted from disclosure by federal law;*
 - (c) *Disclose financial or commercial information which is privileged, proprietary, or confidential in nature;*
 - (d) *Involve accusing a person of a crime, or formally censuring a person;*
 - (e) *Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy or physically endanger one or more persons;*
 - (f) *Disclose investigative records compiled for law enforcement purposes; or*
 - (g) *Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.*

- (3) *For a meeting, or portion of a meeting, closed pursuant to this provision, the Interstate Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemption provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission or by court order.*
- (4) *The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or other electronic communication.*

Section C. Officers and Staff

- (1) *The Interstate Commission may, through its executive committee, appoint or retain a staff director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The staff director shall serve as secretary to the Interstate Commission, but shall not have a vote. The staff director may hire and supervise such other staff as may be authorized by the Interstate Commission.*
- (2) *The Interstate Commission shall elect, from among its members, a chairperson and a vice chairperson of the executive committee and other necessary officers, each of whom shall have such authority and duties as may be specified in the bylaws.*

Section D. Qualified Immunity, Defense, and Indemnification

- (1) *The Interstate Commission's staff director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.*
 - (a) *The liability of the Interstate Commission's staff director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission shall be considered an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.*
 - (b) *The Interstate Commission shall defend the staff director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state, shall defend the commissioner of a member state in a civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.*
 - (c) *To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.*

ARTICLE XI

RULE MAKING FUNCTIONS OF THE INTERSTATE COMMISSION

- (1) *The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.*
- (2) *Rule making shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rule making shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or such other administrative procedure acts as the Interstate Commission deems appropriate consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the United States Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the Interstate Commission.*
- (3) *When promulgating a rule, the Interstate Commission shall, at a minimum:*
 - (a) *Publish the proposed rule's entire text stating any reason for that proposed rule;*
 - (b) *Allow and invite any and all persons to submit written data, facts, opinions, and arguments, which information shall be added to the record, and be made publicly available; and*
 - (c) *Promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.*
- (4) *Rules promulgated by the Interstate Commission shall have the force and effect of administrative rules and shall be binding in the compacting states to the extent and in the manner provided for in this compact.*
- (5) *Not later than sixty (60) days after a rule is promulgated, an interested person may file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rule making record, the court shall hold the rule unlawful and set it aside.*
- (6) *If a majority of the legislatures of the member states rejects a rule, those states may by enactment of a statute or resolution in the same manner used to adopt the compact cause that such rule shall have no further force and effect in any member state.*
- (7) *The existing rules governing the operation of the Interstate Compact on the Placement of Children superseded by this act shall be null and void no less than twelve (12), but no more than twenty-four (24) months after the first meeting of the Interstate Commission created hereunder, as determined by the members during the first meeting.*
- (8) *Within the first twelve (12) months of operation, the Interstate Commission shall promulgate rules addressing the following:*
 - (a) *Transition rules;*
 - (b) *Forms and procedures;*
 - (c) *Time lines;*
 - (d) *Data collection and reporting;*
 - (e) *Rule making;*
 - (f) *Visitation;*
 - (g) *Progress reports and supervision;*
 - (h) *Sharing of information and confidentiality;*
 - (i) *Financing of the Interstate Commission;*
 - (j) *Mediation, arbitration, and dispute resolution;*
 - (k) *Education, training, and technical assistance;*
 - (l) *Enforcement; and*
 - (m) *Coordination with other interstate compacts.*
- (9) *Upon determination by a majority of the members of the Interstate Commission that an emergency exists:*
 - (a) *The Interstate Commission may promulgate an emergency rule only if it is required to:*

1. *Protect the children covered by this compact from an imminent threat to their health, safety, and well-being;*
 2. *Prevent loss of federal or state funds; or*
 3. *Meet a deadline for the promulgation of an administrative rule required by federal law; and*
- (b) *An emergency rule shall become effective immediately upon adoption, provided that the usual rule making procedures provided under this article shall be retroactively applied to this rule as soon as reasonably possible, but no later than ninety (90) days after the effective date of the emergency rule; and*
- (c) *An emergency rule shall be promulgated as provided for in the rules of the Interstate Commission.*

ARTICLE XII

OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

Section A. Oversight

- (1) *The Interstate Commission shall oversee the administration and operation of the compact.*
- (2) *The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and the rules of the Interstate Commission and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The compact and its rules shall be binding in the compacting states to the extent and in the manner provided for in this compact.*
- (3) *All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact.*
- (4) *The Interstate Commission shall be entitled to receive service of process in any action in which the validity of a compact provision or rule is the issue for which a judicial determination has been sought and shall have standing to intervene in any proceedings. Failure to provide service of process to the Interstate Commission shall render any judgment, order, or other determination, however so captioned or classified, void as to the Interstate Commission, this compact, its bylaws or rules of the Interstate Commission.*

Section B. Dispute Resolution

- (1) *The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and nonmember states.*
- (2) *The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among compacting states. The costs of such mediation or dispute resolution shall be the responsibility of the parties to the dispute.*

Section C. Enforcement

- (1) *If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, its bylaws or rules, the Interstate Commission may:*
 - (a) *Provide remedial training and specific technical assistance;*
 - (b) *Provide written notice to the defaulting state and other member states, of the nature of the default and the means of curing the default. The Interstate Commission shall specify the conditions by which the defaulting state shall cure its default;*
 - (c) *By majority vote of the members, initiate legal action against a defaulting member state in the United State District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal office, to enforce compliance with the provisions of the compact, its bylaws or rules. The relief sought may include both injunctive relief and damages. If judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees; or*
 - (d) *Avail itself of any other remedies available under state law or the regulation of official or professional conduct.*

ARTICLE XIII

FINANCING OF THE COMMISSION

- (1) *The Interstate Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.*
- (2) *The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which shall be in a total amount sufficient to cover the Interstate Commission's annual budget as approved by its members each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission which shall promulgate a rule binding upon all member states.*
- (3) *The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet these obligations, nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.*
- (4) *The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.*

ARTICLE XIV

MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

- (1) *Any state shall be eligible to become a member state.*
- (2) *The compact shall become effective and binding upon legislative enactment of the compact into law by no fewer than thirty-five (35) states. The effective date shall be the later of July 1, 2008 or upon enactment of the compact into law by the thirty-fifth state. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The executive heads of the state human services administration with ultimate responsibility for the child welfare program of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states.*
- (3) *The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding on the member states unless and until it is enacted into law by unanimous consent of the member states.*

ARTICLE XV

WITHDRAWAL AND DISSOLUTION

Section A. Withdrawal

- (1) *Once effective, the compact shall continue in force and remain binding upon each and every member state, provided that a member state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.*
- (2) *Withdrawal from this compact shall be by the enactment of a statute repealing the same. The effective date of withdrawal shall be the effective date of the repeal of the statute.*
- (3) *The withdrawing state shall immediately notify the president of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall then notify the other member states of the withdrawing state's intent to withdraw.*
- (4) *The withdrawing state shall be responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal.*
- (5) *Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the members of the Interstate Commission.*

Section B. Dissolution of Compact

- (1) *This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one (1) member state.*
- (2) *Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.*

ARTICLE XVI**SEVERABILITY AND CONSTRUCTION**

- (1) *The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.*
- (2) *The provisions of this compact shall be liberally construed to effectuate its purposes.*
- (3) *Nothing in this compact shall be construed to prohibit the concurrent applicability of other interstate compacts to which the states are members.*

ARTICLE XVII**BINDING EFFECT OF COMPACT AND OTHER LAWS****Section A. Other Laws**

- (1) *Nothing in this compact prevents the enforcement of any other law of a member state that is not inconsistent with this compact.*

Section B. Binding Effect of the Compact

- (1) *All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, shall be binding upon the member states.*
- (2) *All agreements between the Interstate Commission and the member states shall be binding in accordance with their terms.*
- (3) *If any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.*

ARTICLE XVIII**INDIAN TRIBES**

Notwithstanding any other provision in this compact, the Interstate Commission may promulgate guidelines to permit Indian tribes to utilize the compact to achieve any or all of the purposes of the compact as specified in Article I. The Interstate Commission shall make reasonable efforts to consult with Indian tribes in promulgating guidelines to reflect the diverse circumstances of the various Indian tribes.

➔Section 6. KRS 615.040 is amended to read as follows:

The following provisions apply to the compact described in KRS 615.030:

- (1) The following definitions apply to KRS 615.030:
 - (a) As ~~defined~~^{used} in ~~subsection (18)~~^{subsection (18)} ~~paragraph (a)~~ of Article ~~I~~^{IV} of the interstate compact on the placement of children, the phrase "**public child placing agency**" ~~["appropriate authority in the receiving state"]~~ with reference to this state shall mean the Cabinet for Health and Family Services.
 - ~~(b) The "appropriate public authorities" as used in Article III of the interstate compact on the placement of children shall, with reference to this state, mean the Cabinet for Health and Family Services and said cabinet shall receive and act with reference to notices required by said Article III.~~
 - ~~(c)~~ As used in Article ~~VIII~~^{VII} of the interstate compact on the placement of children, the term "executive head" means the Governor. The Governor is hereby authorized to appoint a compact administrator in accordance with the terms of said Article ~~VIII~~^{VII}.
- (2) Financial responsibility for any child placed pursuant to the provisions of the interstate compact on the placement of children:
 - (a) Shall be determined in accordance with the provisions of Article ~~VII~~^{VI} thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of KRS 405.020 shall apply.
 - (b) The officers and agencies of this state and its subdivisions having authority to place children are hereby empowered to enter into agreements with appropriate officers or agencies of or in another party state pursuant to ~~subsection (5)~~^{subsection (5)} ~~paragraph (b)~~ of Article ~~VII~~^{VI} of the interstate compact on the placement of children. Any such agreement which contains a financial commitment or imposes a financial

obligation on this state or subdivision or agency thereof shall not be binding unless it has the approval in writing of the secretary of the Finance and Administration Cabinet in the case of the state and of the chief local fiscal officer in the case of a subdivision of the state.

- (3) Any court having jurisdiction to place delinquent children may place such a child in an institution of or in another state pursuant to Article ~~IVIV~~ of the interstate compact on the placement of children and shall retain jurisdiction as provided in Article ~~IVIV~~ of KRS 615.030 thereof.
- (4) No person or institution shall bring or send, or cause to be brought or sent, a dependent child into this state from another state for the purpose of placing him in a family home, either with or without indenture or for adoption, without first filing a ten thousand dollar (\$10,000) bond with the county judge/executive of the county in which the child is to be placed.
- (5) The bond shall be conditioned as follows:
 - (a) That they will not bring or send, or cause to be brought or sent, into this state any child that is incorrigible or of unsound mind or body or who has any contagious or incurable disease;
 - (b) That they will immediately, upon placing the child, report to the department the name and age of the child, and the name and residence of the person with whom he is placed;
 - (c) That if the child becomes a public charge before reaching his majority, they will, within thirty (30) days after receiving written notice of such fact from the department, remove the child from the state;
 - (d) That if the child is convicted of a crime or misdemeanor and is imprisoned, within five (5) years of the time of his arrival, they will remove the child from the state immediately upon his release;
 - (e) That they will place each dependent child by written contract with a person who will furnish the child a proper home, and will make the person receiving the child responsible for its proper care, education, and training;
 - (f) That they will properly supervise the care and training of the child, and visit each child at least once a year;
 - (g) That they will make such reports to the department as the department requires.
- (6) The provisions of KRS 615.030 shall not apply to a parent, stepparent, grandparent, adult brother or sister, or adult uncle or aunt going to any other state or country and bringing a child into this state for the purpose of giving it a home in his own family, and may be waived by the department for any child brought into the state under the supervision of the division or licensed child-caring or child-placing institution or agency by written agreement with the responsible agency of the other state or country, or under special circumstances agreed to in writing by the cabinet and the persons wishing to import a child.
- (7) The provisions of subsections (4) and (5) of this section shall not apply to placements made pursuant to the interstate compact on the placement of children.

➔Section 7. KRS 620.100 is amended to read as follows:

- (1) If the court determines, as a result of a temporary removal hearing, that further proceedings are required, the court shall advise the child and his parent or other person exercising custodial control or supervision of their right to appointment of separate counsel:
 - (a) The court shall appoint counsel for the child to be paid for by the Finance and Administration Cabinet. ***Counsel shall document participation in training on the role of counsel that includes training in early childhood, child, and adolescent development.*** The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for Health and Family Services, of the order appointing counsel. The fee to be fixed by the court shall not exceed five hundred dollars (\$500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars (\$250);
 - (b) The court shall appoint separate counsel for the parent who exercises custodial control or supervision if the parent is unable to afford counsel pursuant to KRS Chapter 31. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for Health and Family Services, of the order appointing counsel. The parent's counsel shall be provided or paid for by the Finance and Administration Cabinet. The fee to be fixed by the court shall not exceed five hundred dollars (\$500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars (\$250);

- (c) The court may, in the interest of justice, appoint separate counsel for a nonparent who exercises custodial control or supervision of the child, if the person is unable to afford counsel, pursuant to KRS Chapter 31. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for Health and Family Services, of the order appointing counsel. Counsel for the person shall be provided or paid for by the Finance and Administration Cabinet. The fee to be fixed by the court shall not exceed five hundred dollars (\$500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars (\$250); and
- (d) The court may, in the interest of justice, appoint a court-appointed special advocate volunteer to represent the best interests of the child pursuant to KRS 620.500 to 620.550. The clerk of the court shall arrange for service on all parties, including the local representative of the cabinet, of the order appointing the court-appointed special advocate volunteer.
- (2) If the court determines that further proceedings are required, the court also shall advise the child and his parent or other person exercising custodial control or supervision that they have a right to not incriminate themselves, and a right to a full adjudicatory hearing at which they may confront and cross-examine all adverse witnesses, present evidence on their own behalf and to an appeal.
- (3) The adjudication shall determine the truth or falsity of the allegations in the complaint. The burden of proof shall be upon the complainant, and a determination of dependency, neglect, and abuse shall be made by a preponderance of the evidence. The Kentucky Rules of Civil Procedure shall apply.
- (4) The disposition shall determine the action to be taken by the court on behalf of the child and his parent or other person exercising custodial control or supervision.
- (5) *Foster parents, preadoptive parents, or relatives providing care for the child shall receive notice of, and shall have a right to be heard in, any proceeding held with respect to the child. This subsection shall not be construed to require that a foster parent, preadoptive parent, or relative caring for the child be made a party to a proceeding solely on the basis of the notice and right to be heard.*

➔Section 8. KRS 202B.210 is amended to read as follows:

Upon the filing of a petition for involuntary admission pursuant to KRS 202B.045, the court shall appoint an attorney to represent the respondent with the appointment and representation to continue unless the respondent retains private counsel. The appointed attorney shall be forthwith notified by the clerk of the allegations in the petition and the date and purpose of the preliminary hearing. When it is necessary to appoint counsel, the District Court shall endeavor to appoint private counsel, if available, to represent respondents, from a list of attorneys who have volunteered to represent such respondents. The list shall be maintained by the District Court clerk. Private counsel appointed by the court shall be compensated in the manner set forth in *Section 7 of this Act* ~~KRS 620.100(1)(a)~~. If no other method of appointing counsel for the respondent is available, the respondent shall be represented by the public advocate pursuant to KRS Chapter 31.

➔Section 9. Sections 5 and 6 of this Act take effect as provided in Article XIV of Section 5 of this Act, upon the legislative enactment of the compact into law by no fewer than 35 states.

➔Section 10. The Cabinet for Health and Family Services shall notify the Reviser of Statutes at the Legislative Research Commission when the thirty-fifth state has enacted the Interstate Compact for the Placement of Children.

➔Section 11. Whereas the safe and secure custody and visitation of children being of great importance to all Kentuckians and no just cause exists for delay, an emergency is declared to exist and Sections 1 and 2 of this Act take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 22, 2013.

CHAPTER 80

(HB 104)

AN ACT relating to healthcare providers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 309.130 is amended to read as follows:

As used in KRS 309.130 to 309.1399, unless the context otherwise requires:

- (1) "Board" means the Kentucky Board of Licensure for Professional Art Therapists;
- (2) "Licensed professional art therapist" means a person who has completed a master's or doctoral degree program in art therapy, or an equivalent course of study, from an accredited educational institution, has completed all of the requirements set out in this chapter, and has been issued a license by the board *for the independent practice of art therapy*;
- (3) "*Licensed professional art therapist associate*" means a person who has:
 - (a) *Completed a master's or doctoral degree program in art therapy, or an equivalent course of study, from an accredited educational institution; and*
 - (b) *Been issued a license by the board to practice art therapy under an approved clinical supervisor authorized by the board;*
- (4) "License holder" means a licensed professional art therapist *or a licensed professional art therapist associate* licensed under the provisions of KRS 309.130 to 309.1399;
- ~~(5)~~~~(4)~~ "The practice of professional art therapy" means the integrated use of psychotherapeutic principles, visual art media, and the creative process in the assessment, treatment, and remediation of psychosocial, emotional, cognitive, physical, and developmental disorders in children, adolescents, adults, families, and groups. Nothing in this subsection shall be construed to authorize any licensed professional art therapist to administer or interpret psychological tests in accordance with KRS Chapter 319; and
- ~~(6)~~~~(5)~~ "Accredited institution" means a university or college accredited by a nationally-recognized accrediting agency of institutions of higher education, or an institution or clinical program approved by the American Art Therapy Association, Inc.

➔Section 2. KRS 309.1305 is amended to read as follows:

- (1) No person shall use the title licensed professional art therapist *or licensed professional art therapist associate* or use "LPAT" *or "LPATA"* or a title or letters that are substantially the same, or hold himself or herself out as having this status unless he or she is licensed by the board.
- (2) No person shall engage in the practice of art therapy unless he or she is licensed under KRS 309.130 to 309.1399.
- (3) KRS 309.130 to 309.1399 shall not apply to persons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes, including but not limited to physicians, physical therapists, occupational therapists, social workers, psychologists, and nurses, or students within accredited training programs of these professions. Nothing in KRS 309.130 to 309.1399 shall be construed to limit, interfere with, or restrict the practice, descriptions of services, or manner in which these persons hold themselves out to the public.
- (4) Nothing in KRS 309.130 to 309.1399 shall be construed to alter, amend, or interfere with the practice of employment counseling, job placement counseling, or school counseling.
- (5) Nothing in KRS 309.130 to 309.1399 shall be construed to apply to the activities and services of a student intern or trainee in art therapy who is pursuing a program of studies in art therapy at an accredited institution of higher learning if the activities are performed under the supervision of a licensed art therapist and constitute a part of the supervised program of study and if the person is designated as an art therapist intern or student in training.

➔Section 3. KRS 309.1315 is amended to read as follows:

The board shall:

- (1) Promulgate administrative regulations necessary to carry out the provisions of KRS 309.130 to 309.1399;
- (2) Select the examinations for licensure and administer the examinations at least annually;
- (3) Establish the application deadline for and score required to pass the examinations;
- (4) Process applications and conduct and review the required examinations;
- (5) Issue licenses to applicants who meet the requirements of KRS 309.133 to 309.137;

- (6) Deny, suspend, or revoke a license to practice art therapy;
- (7) Censure, reprimand, or place a license holder or applicant on probation for a period not to exceed one (1) year;
- (8) Maintain a current register of license holders as a matter of public record;
- (9) Establish criteria for continuing education;
- (10) Establish procedures for receiving, investigating, and resolving complaints against license holders;
- (11) Conduct administrative hearings in accordance with KRS Chapter 13B for disciplinary actions taken under authority of subsections (6) and (7) of this section;
- (12) Approve the level of supervision and experience required for persons seeking licensure;
- (13) Assess fees for the issuance and renewal of licenses to cover administrative and operating expenses of the board, and authorize all disbursements necessary to carry out the provisions of KRS 309.130 to 309.1399;
- (14) Implement an impaired professional art therapist treatment program; ~~and~~
- (15) Establish a code of ethics for *license holders*;
- (16) *Establish requirements for supervision and qualifications of supervisors; and*
- (17) *Establish conditions for inactive status and return to active status for license holders* ~~[professional art therapists]~~.

➔SECTION 4. A NEW SECTION OF KRS 309.130 TO 309.1399 IS CREATED TO READ AS FOLLOWS:

- (1) *The board may issue a license as a professional art therapist associate for a period of up to five (5) years to an applicant who has;*
 - (a) *Completed the educational requirements for registration with the Art Therapy Credentials Board, Inc.;*
 - (b) *Obtained a board-approved supervisor of record; and*
 - (c) *Paid the required fees.*
- (2) *A licensed professional art therapist associate shall maintain on-going supervision as approved by the board until he or she:*
 - (a) *Is registered by the Art Therapy Credentials Board, Inc.; and*
 - (b) *Has passed an examination approved by the board.*
- (3) *At the end of the five (5) year period approved under subsection (1) of this section, a licensed professional art therapist associate who has not completed the requirements for licensure as a professional art therapist shall submit to the board an application for an extension of licensure as a professional art therapy associate. The application shall include:*
 - (a) *A plan for completing the requirements to obtain licensure as a professional art therapist;*
 - (b) *Documentation of compliance with the continuing education requirements;*
 - (c) *Reports of compliance with supervisory requirements;*
 - (d) *Letters of recommendation from two (2) supervisors of record; and*
 - (e) *Payment of an extension fee not to exceed one hundred dollars (\$100).*
- (4) *Upon review of the application and accompanying documentation, the board may approve an extension of the license as a professional art therapist for a period of time not to exceed two (2) years.*
- (5) *If, at the end of the period of extension referenced in subsection (4) of this section, the applicant has not completed all requirements for licensure as a professional art therapist, the board shall rescind the license as a professional art therapist associate and the individual may no longer practice art therapy, or refer to himself or herself by any title which would indicate that he or she is credentialed by the board.*
- (6) *A licensed professional art therapist associate may apply for the credential of licensed professional art therapist upon:*

- (a) *Registration with the Art Therapy Credentials Board, Inc.; and*
 - (b) *Passage of an examination approved by the board.*
- (7) *An individual who is a registered art therapist as defined by the Art Therapy Credentials Board, Inc., but who has not passed the required examination, shall:*
- (a) *Maintain the professional art therapist associate license in order to practice under board-approved supervision; and*
 - (b) *Be scheduled to take the next examination following the approval of the professional art therapist license application.*
- (8) *A professional art therapist associate shall not supervise licensed professional art therapists, licensed professional art therapist associates, or applicants for these licenses.*

➔Section 5. KRS 309.1335 is amended to read as follows:

- (1) Each license holder shall renew the license to practice art therapy biennially by:
 - (a) Submitting a renewal application on a form provided by the board;
 - (b) Paying a license renewal fee; and
 - (c)~~(b)~~ Producing evidence of completion of relevant professional continuing education experience satisfactory to the board and not to exceed forty (40) hours per renewal cycle.
- (2) A ninety (90) day grace period shall be allowed for each license holder after the licensure period, during which time the license may be renewed upon payment of the renewal fee, the late fee, and compliance with all renewal requirements.
- (3) Any license granted by the board shall be automatically suspended if the holder fails to apply for the license renewal pursuant to this section within a period of three (3) months after the renewal deadline; however, any suspended license may be restored by the board upon payment of a reinstatement fee not to exceed one hundred dollars (\$100) in addition to any unpaid renewal or late fees. Failure to renew a license within three (3) months from the date of suspension as provided in this section shall cause the license to be automatically revoked. Reinstatement of a revoked license shall require the license holder to reapply and meet all current standards for licensure.
- (4) A person licensed under the provisions of KRS 309.133 who intends to retire as a licensed professional art therapist, *or as a licensed professional art therapist associate*, shall notify the board in writing before the expiration of his or her current license. If, within a period of five (5) years from the year of retirement, the license holder wishes to resume practice as a licensed professional art therapist, *or as a licensed professional art therapist associate*, he or she shall notify the board in writing, and upon giving proof of completing the required continuing education and the payment of an amount equivalent to elapsed renewal fees, *and for the licensed professional art therapist associate, obtaining a board-approved supervisor of record*, the license shall be restored in full effect.

➔Section 6. KRS 309.135 is amended to read as follows:

The board shall set the amount of the fees required to be paid by the applicants for licensure and the license holders including, but not limited to, the following:

- (1) For an application for initial licensure *as a licensed professional art therapist*, the fee shall be nonrefundable and shall not exceed two hundred dollars (\$200);
- (2) *For an application for initial licensure as a licensed professional art therapist associate, the fee shall be nonrefundable and shall not exceed one hundred dollars (\$100);*
- (3) To take an examination, the fee shall not exceed one hundred dollars (\$100), or, if a national examination is used, the amount of the fee shall not exceed the cost of the examination by more than twenty-five percent (25%);
- ~~(4)(3)~~ The renewal fee *for a licensed professional art therapist* shall not exceed two hundred dollars (\$200);
- (5) *The renewal fee for a licensed professional art therapist associate shall not exceed one hundred dollars (\$100);*
- ~~(6)(4)~~ For a duplicate or replacement license, the fee shall not exceed twenty-five dollars (\$25);

- (7)~~(5)~~ For failure to renew a license *for a licensed professional art therapist* within the allotted grace period pursuant to KRS 309.1335(3), the fee shall not exceed one hundred dollars (\$100);~~and~~
- (8) *For failure to renew a license for a licensed professional art therapist associate within the allotted grace period pursuant to Section 5 of this Act, the fee shall not exceed fifty dollars (\$50); and*
- (9)~~(6)~~ Other reasonable fees for administrative services.

➔Section 7. KRS 311.860 is amended to read as follows:

- (1) (a) As used in this section, "nonseparate location" shall include the following if the supervising physician is available in person or via telecommunication at all times:
1. Hospitals in which patients of the supervising physician are receiving care, subject to the rules and regulations of the governing body of the hospital;
 2. Nursing homes in which the supervising physician has patient care responsibilities, subject to the rules and regulations of the governing body of the nursing home;
 3. The homes of patients of the supervising physician if the home visits are related to patient care; and
 4. School health fairs, wellness clinics, or similar events where the supervising physician is responsible for providing oversight.
- (b) The *supervising physician or credentialing facility shall have oversight*~~board in its discretion may modify, decrease, or waive the requirements~~ of paragraph (a) of this subsection.
- (2) A supervising physician who uses the services of a physician assistant in an office or clinic separate from the physician's primary office shall submit for board approval a specific written request that describes the services to be provided by the physician assistant in the separate office or clinic, the distance between the primary office and the separate location, and the means and availability of direct communication at all times with the supervising physician.
- (3) *Until May 31, 2014*, a newly graduated physician assistant shall not practice medicine or osteopathy in a location separate from the supervising physician *or credentialing facility* until the physician assistant has *three (3)*~~eighteen (18)~~ continuous months of experience in a nonseparate location. *Beginning on June 1, 2014, three (3) continuous months of experience in a nonseparate location shall no longer be required for a physician assistant to practice at a separate location*~~The board in its discretion may modify or waive the requirements of this subsection~~.
- (4) Except as provided by KRS 311.862, a physician assistant may perform services in a location separate from the supervising physician if the supervising physician is continuously available via telecommunication and the following are met:
- (a) The requirements of subsection (2) of this section have been met; or
 - (b) A waiver has been granted by the board.

Signed by Governor March 22, 2013.

CHAPTER 81

(HB 125)

AN ACT relating to the operation of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 281.600 is amended to read as follows:

- (1) The Department of Vehicle Regulation shall exercise all administrative functions of the state in relation to motor carrier transportation as defined in this chapter, and shall apply, as far as practicable, the administrative and judicial interpretations of the Federal Motor Carrier Act. It shall have the right to regulate motor carriers as provided in this chapter and, to that end, may establish reasonable requirements with respect to continuous

and adequate service of transportation, systems of accounts, records and reports, preservation of records, and safety of operation and equipment. It may issue subpoenas, subpoenas duces tecum and orders of personal attendance of witnesses, and production of pertinent records for any proceeding before it, and permit the taking of depositions, all in accord with the Rules of Civil Procedure, and it shall have the power to promulgate administrative regulations as it may deem necessary to carry out the provisions of this chapter. The department shall have the authority to promulgate regulations regarding safety requirements for motor vehicles and the method of operation, including the adoption of any of the federal motor carrier safety regulations and any motor vehicle operating contrary to safety regulations shall be in violation of this section.

- (2) The provisions established by the Federal Highway Administration in Title 49, Part 393 of the United States Code of Federal Regulations shall not apply to:
- (a) A motor vehicle or its towed unit having a fertilizer spreader attachment permanently mounted thereon, having a gross weight not to exceed thirty-six thousand (36,000) pounds, and used only for the transportation of bulk fertilizer; or
 - (b) A farm-wagon-type tank trailer of not more than two thousand (2,000) gallon capacity used during liquid fertilizer season as a field storage tank supplying fertilizer to a field applicator, and moved on a public highway for the purpose of bringing fertilizer from a local source of supply to a farm or field, or from one (1) farm or field to another, provided that the vehicle is being operated solely in intrastate transportation.
- (3) The provisions established by the Federal Highway Administration in **49 C.F.R. sec. 390.21 and 49 C.F.R. pts. 391, 393, 395, and 396** [~~Title 49, Part 391, Part 393, and Part 396 of the United States Code of Federal Regulations~~] shall not apply to a motor vehicle registered under KRS 186.050(4)(a)1., or its towed unit, if:
- (a) The vehicle is not engaged in interstate commerce;
 - (b) The vehicle is engaged in farming or agricultural related activities; and
 - (c) The gross vehicle weight, **gross vehicle weight** rating, **gross vehicle combination weight**, [~~of the vehicle~~] or [~~the~~] gross vehicle combination weight rating of the vehicle and its towed unit is twenty-six thousand (26,000) pounds or less.
- (4) ***The provisions established by the Federal Highway Administration in 49 C.F.R. secs. 391.41 to 391.49 and 49 C.F.R. part 395 shall not apply to a motor vehicle registered under KRS 186.050(3)(b), or its towed unit, if:***
- (a) ***The vehicle is not engaged in interstate commerce;***
 - (b) ***The vehicle is not transporting hazardous materials required to be placarded in accordance with Title 49, Code of Federal Regulations, Part 172;***
 - (c) ***The vehicle is not designed or used to transport sixteen (16) or more passengers, including the driver; and***
 - (d) ***The gross vehicle weight, gross vehicle weight rating, gross vehicle combination weight, or gross vehicle combination weight rating of the vehicle and its towed unit is twenty-six thousand (26,000) pounds or less.***
- (5) The Department of Kentucky State Police shall exercise all administrative functions of the state pertaining to the motor carrier safety management audit program. This program shall be administered according to the provisions of the Federal Motor Carriers Safety Act and the federal regulations promulgated under that Act.

Signed by Governor March 22, 2013.

CHAPTER 82

(HB 161)

AN ACT relating to the criminal justice system.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 514.030 is amended to read as follows:

- (1) Except as otherwise provided in KRS 217.181 ~~[or 218A.1418]~~, a person is guilty of theft by unlawful taking or disposition when he unlawfully:
 - (a) Takes or exercises control over movable property of another with intent to deprive him thereof; or
 - (b) Obtains immovable property of another or any interest therein with intent to benefit himself or another not entitled thereto.
- (2) Theft by unlawful taking or disposition is a Class A misdemeanor ~~[unless the value of the property is five hundred dollars (\$500) or more, in which case it is a Class D felony; or]~~ unless:
 - (a) The property is a firearm (regardless of the value of the firearm), in which case it is a Class D felony;
 - (b) The property is anhydrous ammonia (regardless of the value of the ammonia), in which case it is a Class D felony unless it is proven that the person violated this section with the intent to manufacture methamphetamine in violation of KRS 218A.1432, in which case it is a Class B felony for the first offense and a Class A felony for each subsequent offense; ~~[or]~~
 - (c) *The property is one (1) or more controlled substances valued collectively at less than ten thousand dollars (\$10,000), in which case it is a Class D felony.*
 - (d) *The value of the property is five hundred dollars (\$500) or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony;*
 - (e) The value of the property is ten thousand dollars (\$10,000) or more *but less than one million dollars (\$1,000,000)*, in which case it is a Class C felony;
 - (f) *The value of the property is one million dollars (\$1,000,000) or more but less than ten million dollars (\$10,000,000), in which case it is a Class B felony; or*
 - (g) *The value of the property is ten million dollars (\$10,000,000) or more, in which case it is a Class B felony.*
- (3) *Any person convicted under subsection (2)(g) of this section shall not be released on probation or parole until he or she has served at least fifty percent (50%) of the sentence imposed, any statute to the contrary notwithstanding.*

➔Section 2. The following KRS section is repealed:

218A.1418 Theft of a controlled substance -- Not considered theft under KRS Chapter 514.

Signed by Governor March 22, 2013.

CHAPTER 83

(HB 164)

AN ACT relating to proof of motor vehicle insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 304.39-117 is amended to read as follows:

- (1) Each insurer issuing an insurance contract which provides security covering a motor vehicle shall provide to the insured, in compliance with administrative regulations promulgated by the department, written proof in the form of an insurance card that the insured has in effect an insurance contract providing security in conformity with this subtitle. ***An insurer may provide an insurance card in either a paper or an electronic format.***
- (2) The owner shall keep the ***paper insurance card or a portable electronic device to download the insurance card*** in his or her motor vehicle as prima facie evidence, except as provided in subsection (3) of this section, that the required security is currently in full force and effect, and shall show the card to a peace officer upon request.

- (3) On and after January 1, 2006, as to personal motor vehicles as defined in KRS 304.39-087, the ***paper or electronic insurance*** card and the database created by KRS 304.39-087 shall be evidence to a peace officer who requests the card if the peace officer has access to the database through AVIS. If AVIS does not list the vehicle identification number of the personal motor vehicle as an insured vehicle, the peace officer may accept ***a paper or electronic***~~an~~ insurance card as evidence that the required security is currently in full force and effect on the personal motor vehicle if the card was effective no more than forty-five (45) days before the date on which the peace officer requests the card.
- (4) ***For purposes of this section:***
- (a) ***An insurance card in an electronic format means the display of an image on any portable electronic device, including a cellular phone or any other type of portable electronic device, depicting a current valid representation of the card;***
- (b) ***Whenever a person presents a mobile electronic device pursuant to this section, that person assumes all liability for any damage to the mobile electronic device; and***
- (c) ***When a person provides evidence of financial responsibility using a mobile electronic device to a peace officer, the peace officer shall only view the electronic image of the insurance card and is prohibited from viewing any other content on the mobile electronic device.***

➔Section 2. KRS 186A.042 is amended to read as follows:

- (1) On and after January 1, 2006, a county clerk shall not process an application for, nor issue, a:
- (a) Kentucky title and registration or renewal of registration;
- (b) Replacement plate, decal, or registration certificate;
- (c) Duplicate registration;
- (d) Transfer of registration; or
- (e) Temporary tag;
- for any personal motor vehicle as defined in KRS 304.39-087(1) if AVIS does not list the vehicle identification number of the personal motor vehicle as an insured vehicle, except as provided in subsection (2) of this section.
- (2) If AVIS does not list the vehicle identification number of the personal motor vehicle as an insured vehicle, the county clerk may process the application if:
- (a) The applicant has an insurance card ***in paper or electronic format*** that indicates the required security is currently in full force on the personal motor vehicle if the ***paper or electronic proof of insurance*** card was effective no more than forty-five (45) days before the application is submitted to the county clerk; or
- (b) The owner of the motor vehicle is serving in the Armed Forces outside of Kentucky, and the owner provides an affidavit by the provost marshal of the base where the owner is stationed stating that the motor vehicle is covered by security as required by Subtitle 39 of KRS Chapter 304.
- (3) This section shall not apply to any transactions involving Kentucky motor vehicle dealers who are licensed as required by KRS 190.030.
- (4) ***For purposes of this section:***
- (a) ***An insurance card in an electronic format means the display of an image subject to immediate download or transmission from the applicant's insurer or agent to the applicant on any portable electronic device, including a cellular phone or any other type of portable electronic device, but shall not include a photographic copy of a paper insurance card on a portable electronic device; and***
- (b) ***The county clerk may require the applicant to e-mail the electronic insurance card to the clerk, and the clerk may print a copy of the card for the clerk's records.***

Signed by Governor March 22, 2013.

CHAPTER 84

(HB 181)

AN ACT relating to financial aid for pharmacy students.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 164.7890 is amended to read as follows:

- (1) To ensure the public health purpose of access to pharmaceutical services in the coal-producing counties of the Commonwealth, which have been traditionally underserved for pharmaceutical services due to a shortage of pharmacists in the Commonwealth, the General Assembly hereby establishes a coal county scholarship program to provide eligible Kentucky students the opportunity to attend an accredited school of pharmacy or a provisionally accredited school of pharmacy in the Commonwealth, and to become certified pharmacists in the Commonwealth, provided that the scholarship recipient agrees to practice pharmacy in a coal-producing county for each year a scholarship is provided.
- (2) "Coal-producing county" as used in this section has the same meaning as in KRS 42.4592(1)(c).
- (3) The authority may award scholarships, to the extent funds are available for that purpose, to any person who:
 - (a) Is a Kentucky resident;
 - (b) Is a United States citizen as determined by the institution in accordance with criteria established by the Council on Postsecondary Education for the purposes of admission and tuition assessment;
 - (c) Is enrolled or accepted for enrollment in a Pharm.D. program at an accredited institution or a provisionally accredited institution in the Commonwealth on a full-time basis, or is a student who has a disability defined by Title II of the Americans with Disabilities Act, 42 U.S.C. secs. 12131 et seq., certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability;
 - (d) Agrees to render one (1) year of qualified service in a coal-producing county of the Commonwealth for each year the scholarship was awarded. "Qualified service" means a full-time practice in a coal-producing county of the Commonwealth of Kentucky as a licensed pharmacist for a majority of the calendar year, except that an individual having a disability defined by Title II of the Americans with Disabilities Act, 42 U.S.C. secs. 12131 et seq., whose disability, certified by another licensed physician, prevents him or her from practicing full-time, shall be deemed to perform qualified service by practicing the maximum time permitted by the attending physician, in the coal-producing county; and
 - (e) Agrees to sign a promissory note as evidence of the scholarship awarded and the obligation to repay the scholarship amount or render pharmacy service as agreed in lieu of payment.
- (4) (a) Notwithstanding KRS 164.753(3), the amount of the scholarship ***shall not exceed forty percent (40%) of the approximate average of first professional year in-state tuition for all pharmacy schools in the United States***~~awarded to an eligible student by the authority shall not exceed the difference between the prevailing amount charged for in state tuition at the University of Kentucky College of Pharmacy and the prevailing amount charged for tuition at the institution at which the student is enrolled~~. The authority shall establish, by administrative regulation a procedure for awarding scholarships which shall give preference to students residing in coal-producing counties and which shall establish procedures to award scholarships should funding be insufficient to award scholarships to all eligible students. The authority may also, by administrative regulation, establish scholarship amounts based on demonstration of initial financial need by eligible students.
 - (b) The actual amount of the scholarship awarded to each eligible student by the authority for each semester shall be based on the amount of funds available and the criteria established under paragraph (a) of this subsection.
- (5) (a) The authority shall require each student receiving a scholarship to execute a promissory note as evidence of the obligation.
 - (b) The recipient shall render one (1) year of qualified service in a coal-producing county for each year the scholarship was awarded. Upon completion of each year of qualified service in a coal-producing county, the authority shall cancel the appropriate number of promissory notes. Promissory notes shall be canceled by qualified service in the order in which the promissory notes were executed. Service credit shall not include residency service.

- (c) If a recipient fails to complete an eligible program of study, or fails to render service as a pharmacist as agreed in this subsection, the recipient shall be liable for the total repayment of the sum of all outstanding promissory notes and accrued interest.
- (6) Any person who is in default on any obligation to the authority under any program administered by the authority under KRS 164.740 to 164.785 shall not be awarded a scholarship or have a promissory note canceled until all financial obligations to the authority are satisfied, except that ineligibility for this reason may be waived by the authority for cause.
- (7) A repayment obligation imposed by this section shall not be voidable by reason of the age of the recipient at the time of executing the promissory note.
- (8) Failure to meet repayment obligations imposed by this section shall be cause for the revocation of the scholarship recipient's license to practice pharmacy, subject to the procedures set forth in KRS Chapter 311.
- (9) Notwithstanding KRS 164.753(3), the authority shall establish by administrative regulation procedures for the administration of this program, including but not limited to the execution of appropriate contracts and promissory notes, cancellation of obligations, the rate of repayment, and deferment of repayment of outstanding debt.
- (10) Notwithstanding any other statute to the contrary, the maximum interest rate applicable to repayment of a promissory note under this section shall be twelve percent (12%) per annum, except that if a judgment is rendered to recover payment, the judgment shall bear interest at the rate of five percent (5%) greater than the rate actually charged on the promissory note.
- (11)
 - (a) The coal county pharmacy scholarship fund is hereby created as a revolving fund in the State Treasury to be administered by the Kentucky Higher Education Assistance Authority for the purpose of providing scholarships to qualifying students studying pharmacy in schools in the Commonwealth.
 - (b) The fund shall consist of amounts transferred from coal severance tax receipts as provided in paragraph (c) of this subsection and any other proceeds from grants, contributions, appropriations, or other moneys made available for the fund.
 - (c)
 - 1. Receipts from the coal severance tax levied under KRS 143.020 shall be transferred to the fund on an annual basis in an amount not to exceed the lesser of:
 - a. Four percent (4%) of the total annual coal severance tax revenues collected under KRS 143.020; or
 - b. The amount necessary to provide full funding for all students who qualify for a scholarship under this section, considering all other resources available.
 - 2. Transfers required by subparagraph 1. of this paragraph shall be made as follows:
 - a. On or before August 1 of each year, sixty-five percent (65%) of the amount of funding provided for in this paragraph shall be transferred to the fund; and
 - b. The remaining thirty-five percent (35%) shall be transferred on or before December 1 of each year.
 - 3. The amount transferred shall be based upon the prevailing revenue estimate for coal severance tax receipts at the time each transfer is made.
 - (d) Any unallotted or unencumbered balances in the trust fund shall be invested as provided in KRS 42.500(9).
 - (e) Income earned from the investments shall be credited to the trust fund.
 - (f) Notwithstanding KRS 45.229, any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year.
 - (g) All amounts included in the fund shall be continuously appropriated only for the purposes specified in this section.
 - (h) A general statement that all continuing appropriations are repealed, discontinued, or suspended shall not operate to repeal, discontinue, or suspend this fund or to repeal this action.
 - (i) All moneys repaid to the authority under this section shall be added to the fund.

Signed by Governor March 22, 2013.

CHAPTER 85

(HB 205)

AN ACT designating Ale-8-One as an original Kentucky soft drink.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

Ale-8-One is named and designated as an original Kentucky soft drink.

Signed by Governor March 22, 2013.

CHAPTER 86

(HB 220)

AN ACT relating to preschool funding for children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 157.3175 is amended to read as follows:

- (1) ~~*Each*~~~~Beginning with the 1990-91 school year, it shall be the responsibility of each~~ local school district ~~shall~~~~to~~ assure that a developmentally appropriate half-day preschool education program is provided for each child who is ~~four (4) years of age by October 1 of each year and~~ at risk of educational failure ***and who is four (4) years of age:***

(a) By October 1, for any year prior to 2017; or

(b) By August 1, for 2017 or any year thereafter.

~~[Any school district which can show a lack of facilities to comply with this section may apply for an exemption to delay implementation until 1991-92.]~~ All other four (4) year old children shall be served to the extent placements are available. The Kentucky Board of Education, upon the recommendation of the chief state school officer, shall adopt administrative regulations establishing the guidelines for the program. Administrative regulations shall establish eligibility criteria, program guidelines, and standards for personnel.

- (2) "Developmentally appropriate preschool program" means a program which focuses on the physical, intellectual, social, and emotional development of young children. The preschool program shall help children with their interpersonal and socialization skills.

- (3) Funds appropriated by the General Assembly for the preschool education programs shall be granted to local school districts according to a grant allotment system approved by the Kentucky Board of Education. Children who are at risk shall be identified based on the Federal School Lunch Program eligibility criteria for free lunch. Appropriations shall be separate from all other funds appropriated to the Department of Education ***and shall be administered in accordance with applicable federal and state statutes and administrative regulations. Eligible local school districts shall receive funds based on the average number of preschool children being served on December 1 and March 1 of the prior academic year who are appropriately identified as:***

(a) Three (3) and four (4) years of age with disabilities; and

(b) Four (4) years of age identified as at risk of educational failure.

Local school districts may develop cooperative arrangements with other school districts or organizations in accordance with KRS 157.280.

- (4) *A child shall be eligible for a free and appropriate preschool education and related services if:*
- (a) *1. The child has been identified as a child with a disability in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. sec. 1400 et seq.; or*
 - 2. The child has been identified in accordance with the definitions and procedures for exceptional children and youth in accordance with KRS 157.200(1)(a) to (m); and*
 - (b) *The child is three (3) or four (4) years of age:*
 - 1. By October 1, for any year before 2017; or*
 - 2. By August 1, for 2017 or any year thereafter.*
- (5)~~(4)~~ The chief state school officer shall receive and review proposals from local school districts for grants to operate or oversee the operation of developmentally appropriate preschool education programs. Districts may submit proposals for implementing new services, enhancing existing preschool education services, or contracting for services. In designing a local early childhood education program, each district shall work with existing preschool programs to avoid duplication of programs and services, to avoid supplanting federal funds, and to maximize Head Start funds in order to serve as many four (4) year old children as possible.
- (6)~~(5)~~ Each program proposal shall include, at a minimum:
- (a) A description of the process conducted by the district to assure that the parents or guardians of all eligible participants have been made aware of the program and of their right to participate;
 - (b) A description of the planned educational programming and related services;
 - (c) The estimated number of children participating in the program;
 - (d) Strategies for involving children with disabilities;
 - (e) Estimated ratio of staff to children with the maximum being one (1) adult for each ten (10) children;
 - (f) The estimated percentage of children participating in the program who are at risk of educational failure;
 - (g) Information on the training and qualifications of program staff and documentation that the staff meet required standards;
 - (h) A budget and per-child expenditure estimate;
 - (i) A plan to facilitate active parental involvement in the preschool program, including provisions for complementary parent education when appropriate;
 - (j) Facilities and equipment which are appropriate for young children;
 - (k) The days of the week and hours of a day during which the program shall operate;
 - (l) A plan for coordinating the program with existing medical and social services, including a child development and health screening component;
 - (m) Assurances that participants shall receive breakfast or lunch;
 - (n) Program sites which meet state and local licensure requirements;
 - (o) A plan for coordinating program philosophy and activities with the local district's primary school program;
 - (p) An evaluation component; and
 - (q) Certification from the Head Start director that the Head Start program is fully utilized pursuant to subsection (4) of this section.
- (7)~~(6)~~ Programs shall reflect an equitable geographic distribution representative of all areas of the Commonwealth.

➔Section 2. The following KRS section is repealed:

157.226 Preschool program for disabled children.

Signed by Governor March 22, 2013.

CHAPTER 87

(HB 222)

AN ACT relating to a crime victim address protection program within the Department of State.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 14 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 10 of this Act unless the context otherwise requires:

- (1) *"Address" means a residential street address, school address, or work address of an individual, as specified on the application of an individual to be a program participant under this section;*
- (2) *"Applicant" means a person applying for certification in the address confidentiality program under Sections 1 to 10 of this Act;*
- (3) *"Criminal offense against a victim who is a minor" has the same meaning as in KRS 17.500;*
- (4) *"Domestic violence and abuse" has the same meaning as in KRS 403.720;*
- (5) *"Program participant" means a person certified as a program participant under Sections 1 to 10 of this Act;*
- (6) *"Sex crime" means an offense or an attempt to commit an offense defined in:*
 - (a) *KRS Chapter 510;*
 - (b) *KRS 530.020;*
 - (c) *KRS 530.064(1)(a);*
 - (d) *KRS 531.310;*
 - (e) *KRS 531.320; or*
 - (f) *Any criminal attempt to commit an offense specified in this subsection, regardless of the penalty for the attempt;*
- (7) *"Specified offense" means:*
 - (a) *Domestic violence and abuse;*
 - (b) *Stalking;*
 - (c) *A sex crime;*
 - (d) *A criminal offense against a victim who is a minor;*
 - (e) *A similar federal offense; or*
 - (f) *A similar offense from another state or territory; and*
- (8) *"Stalking" means conduct prohibited under KRS 508.140 and 508.150.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 14 IS CREATED TO READ AS FOLLOWS:

- (1) *On or after July 1, 2013, the Secretary of State shall create a crime victim address protection program.*
- (2) *The crime victim address protection program shall be open to victims of a specified offense who are United States citizens and residents of Kentucky, without any cost to the program participant.*
- (3) *The Secretary of State shall require that each person employed in the Office of the Secretary of State directly responsible for the administration of the crime victim address protection program submit his or her fingerprints to the Department of State. The Department of State shall exchange fingerprint data with the Kentucky State Police and the Federal Bureau of Investigation in order to conduct a criminal history background check of each employee directly responsible for the administration of the program.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 14 IS CREATED TO READ AS FOLLOWS:

- (1) *Upon the creation of the crime victim address protection program, an applicant, a parent or guardian acting on behalf of a minor, a guardian acting on behalf of a person who is declared incompetent, or a designee of an applicant or a parent or guardian of a minor or a guardian of a person declared incompetent who cannot for any reason apply themselves, may apply to the Secretary of State to have an address designated by the Secretary of State serve for voting purposes as the address of the applicant, the minor, or the incompetent person. The Secretary of State shall approve an application if it is filed in the manner and on the form prescribed by the Secretary of State by administrative regulation and if it contains:*
- (a) *A sworn statement by the applicant that:*
 1. *The applicant or the minor or the incompetent person on whose behalf the application is made is a victim of a specified offense in an ongoing criminal case or in a criminal case that resulted in a conviction by a judge or jury or by a defendant's guilty plea; or*
 2. *The applicant or the minor or the incompetent person on whose behalf the application is made has been granted an emergency protective order or a domestic violence order under KRS Chapter 403 by a court of competent jurisdiction within the Commonwealth of Kentucky and the order is in effect at the time of application;*
 - (b) *A sworn statement by the applicant that disclosure of the address of the applicant would endanger the safety of the applicant or the safety of the children of the applicant, or the minor or incompetent person on whose behalf the application is made.*
 - (c) *The mailing address and the phone number or numbers where the applicant can be contacted by the Secretary of State;*
 - (d) *The new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of a specified offense; and*
 - (e) *The signature of the applicant and of a representative of any office designated under Section 6 of this Act as a referring agency who assisted in the preparation of the application, and the date on which the applicant signed the application.*
- (2) *Applications shall be filed with the Office of the Secretary of State.*
- (3) *Upon the filing of a properly completed application, the Secretary of State shall certify the applicant as a program participant if the applicant is not required to register as a sex offender or is not otherwise prohibited from participating in the program.*
- (4) *Applicants shall be certified for two (2) years following the date of filing unless the certification is withdrawn or invalidated before that date. The Secretary of State shall promulgate an administrative regulation to establish a renewal procedure.*
- (5) *A person who falsely attests in an application that disclosure of the address of the applicant would endanger the safety of the applicant or the safety of the children of the applicant, or the minor or incompetent person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application may be found guilty of a violation of KRS 523.030.*
- (6) *The addresses of individuals applying for entrance into the crime victim address confidentiality program and the addresses of those certified as program participants shall be exempt from disclosure under the Kentucky Open Records Act, KRS 61.870 to KRS 61.884.*
- (7) *A program participant shall notify the Office of the Secretary of State of a change of address within seven (7) days of the change of address.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 14 IS CREATED TO READ AS FOLLOWS:

- (1) *The Secretary of State may cancel certification of a program participant if within fourteen (14) days:*
- (a) *From the date of the program participant changing his or her name, the program participant fails to notify the Secretary of State that he or she has obtained a name change; however, the program participant may reapply under his or her new name; or*
 - (b) *From the date of changing his or her address, the program participant fails to notify the Secretary of State of the change of address.*
- (2) *The Secretary of State shall cancel certification of a program participant who applies using false information.*

- (3) *The Secretary of State shall send notice of certification cancellation to the program participant. The notice of certification cancellation shall set out the reasons for cancellation. The program participant has the right to appeal the decision within thirty (30) days under procedures established by the Office of the Secretary of State by administrative regulation.*
- (4) *The Secretary of State shall cancel certification of a program participant who is required to register as a sex offender.*
- (5) *A program participant may withdraw from the program by providing the Secretary of State with notice of his or her intention to withdraw from the program. The Secretary of State shall promulgate by administrative regulations a secure procedure by which to ensure that the program participant's request for withdrawal is legitimate.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 14 IS CREATED TO READ AS FOLLOWS:

The Secretary of the State shall not make available for inspection or copying any records in a file of a program participant, other than the address designated by the Secretary of State, except under the following circumstances:

- (1) *If directed by a court order signed by a judge or justice of a court of competent jurisdiction within the Commonwealth of Kentucky; or*
- (2) *Upon written request by the chief law enforcement officer of a city or county, or the commander of a Department of Kentucky State Police post or branch, if related to an ongoing official investigation. Requests shall include the reason the information is needed by the law enforcement agency.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 14 IS CREATED TO READ AS FOLLOWS:

The Secretary of State shall establish a list of state and local agencies and nonprofit agencies that provide counseling and shelter services to victims of a specified offense to assist persons applying to be program participants. Any assistance and counseling rendered to applicants by the Office of the Secretary of State or its designees shall in no way be construed as legal advice.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 14 IS CREATED TO READ AS FOLLOWS:

- (1) *A program participant who is otherwise qualified to vote may register to vote and apply for and submit a mail-in absentee ballot under this section.*
- (2) *Using the authority granted under subsection (1) of Section 10 of this Act, the State Board of Elections shall design a system allowing a county clerk to shield from public view all voting records of a program participant, including the name and address of a program participant, and allowing a program participant to vote by mail-in absentee ballot. This authority may be used to modify statutory or regulatory requirements that would lead to disclosure of the program participant's name and address, but shall not include authority to waive or modify any other requirements relative to the program participant's qualifications to vote, including age and geographic residency.*
- (3) *The program participant may receive mail-in absentee ballots for all elections in the jurisdiction in which that individual resides in the same manner as a person requesting an absentee ballot under subsection (1)(a) of Section 11 of this Act. The county clerk shall transmit a mail-in absentee ballot to the program participant at the address designated by the participant in his or her application.*
- (4) *Neither the name nor the address of a program participant shall be included in any list of registered voters available to the public, including any list inspected under KRS 116.095.*

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 14 IS CREATED TO READ AS FOLLOWS:

Nothing in this chapter, nor participation in the program created in this chapter, shall affect custody or visitation orders in effect prior to or during program participation.

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 14 IS CREATED TO READ AS FOLLOWS:

No actionable duty or any right of action shall accrue against the state, a county, a municipality, an agency of the state or county or municipality, or an employee of the state or county or municipality in the event of negligent disclosure of a program participant's actual address.

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 14 IS CREATED TO READ AS FOLLOWS:

- (1) *The State Board of Elections may promulgate administrative regulations to implement Sections 7 and 11 of this Act.*

(2) *The Secretary of State may promulgate administrative regulations to implement Sections 1 to 6, 8, and 9 of this Act.*

➔Section 11. KRS 117.085 is amended to read as follows:

- (1) All requests for an application for an absentee ballot may be transmitted by telephone, facsimile machine, by mail, by electronic mail, or in person. Except as provided in paragraph (b) of this subsection, all applications for an absentee ballot shall be transmitted only by mail to the voter or in person at the option of the voter, except that the county clerk shall hand an application for an absentee ballot to a voter permitted to vote by absentee ballot who appears in person to request the application, or shall mail the application to a voter permitted to vote by absentee ballot who requests the application by telephone, facsimile machine, or mail. The absentee ballot application may be requested by the voter or the spouse, parents, or children of the voter, but shall be restricted to the use of the voter. Except for qualified voters who apply pursuant to the requirements of KRS 117.075 and 117.077, those who are incarcerated in jail but have yet to be convicted, military personnel confined to a military base on election day, and persons who qualify under paragraph (a)7. of this subsection, absentee ballots shall not be mailed to a voter's residential address located in the county in which the voter is registered. In the case of ballots returned by mail, the county clerk shall provide an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for an absentee ballot as provided in this section and who is properly registered as stated in his or her application.
- (a) The following voters may apply to cast their votes by mail-in absentee ballot if the application is received not later than the close of business hours seven (7) days before the election:
1. Voters permitted to vote by absentee ballot pursuant to KRS 117.075;
 2. Voters who are residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and citizens residing overseas;
 3. Voters who are students who temporarily reside outside the county of their residence;
 4. Voters who are incarcerated in jail who have been charged with a crime but have not been convicted of the crime;
 5. Voters who change their place of residence to a different state while the registration books are closed in the new state of residence before an election of electors for President and Vice President of the United States, who shall be permitted to cast an absentee ballot for electors for President and Vice President of the United States only;
 6. Voters who temporarily reside outside the state but who are still eligible to vote in this state;~~and~~
 7. Voters who are prevented from voting in person at the polls on election day and from casting an absentee ballot in person in the county clerk's office on all days absentee voting is conducted prior to election day because their employment location requires them to be absent from the county all hours and all days absentee voting is conducted in the county clerk's office; **and**
 8. ***Voters who are program participants in the Secretary of State's crime victim address confidentiality protection program as authorized by Section 7 of this Act.***
- (b) Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and overseas citizens, may apply for an absentee ballot by means of the federal post-card application, which may be transmitted to the county clerk's office by mail or by facsimile machine. The application may be used to register, reregister, and to apply for an absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his or her seal to the application form upon receipt.
- (c) Absentee voting shall be conducted in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections during normal business hours for at least the twelve (12) working days before the election. A county board of elections may permit absentee voting to be conducted on a voting machine for a period longer than the twelve (12) working days before the election.
- (d) Any qualified voter in the county who is not permitted to vote by absentee ballot under paragraph (a) of this subsection who will be absent from the county on any election day may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application

- in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (e) The following voters may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections:
1. Voters who are residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and citizens residing overseas, who will be absent from the county on any election day;
 2. Voters who are students who temporarily reside outside the county of their residence;
 3. Voters who have surgery scheduled that will require hospitalization on election day, and the spouse of the voter;
 4. Voters who temporarily reside outside the state but who are still eligible to vote in this state and who will be absent from the county on any election day;
 5. Voters who are residents of Kentucky who are members of the Armed Forces confined to a military base on election day and who learn of that confinement within seven (7) days or less of an election and are not eligible for a paper absentee ballot under this subsection; and
 6. A voter who is a pregnant woman in her last trimester of pregnancy at the time she wishes to vote under this paragraph. The application form for a voter under this subparagraph shall be prescribed by the State Board of Elections, which shall contain the woman's sworn statement that she is in fact in her last trimester of pregnancy at the time she wishes to vote.
- (f) Voters who change their place of residence to a different state while the registration books are closed in the new state of residence before a presidential election shall be permitted to cast an absentee ballot for President and Vice President only, by making application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (g) Any member of the county board of elections, any precinct election officer appointed to serve in a precinct other than that in which he or she is registered, any alternate precinct election officer, any deputy county clerk, any staff for the State Board of Elections, and any staff for the county board of elections may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. The application form for those persons shall be prescribed by the State Board of Elections and, in the case of application by precinct election officers, shall contain a verification of appointment signed by a member of the county board of elections. If an alternate precinct election officer or a precinct election officer appointed to serve in a precinct other than that in which he or she is registered receives his or her appointment while absentee voting is being conducted in the county, such officer may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. In case of such voters, the verification of appointment shall also contain the date of appointment. The applications shall be restricted to the use of the voter only.
- (h) The members of the county board of elections or their designees who provide equal representation of both political parties may serve as precinct election officers, without compensation, for all absentee voting performed on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. If the members of the county board of elections or their designees serve as precinct election officers for the absentee voting, they shall perform the same duties and exercise the same authority as precinct election officers who serve on the day of an election. If the members of the county board of elections or their designees do not serve as precinct election officers for the absentee voting, the county clerk or deputy county clerks shall supervise the absentee voting.
- (i) Any individual qualified to appoint challengers for the day of an election may also appoint challengers to observe all absentee voting performed at the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, and those challengers may

exercise the same privileges as challengers appointed for observing voting on the day of an election at a regular polling place.

- (2) The clerk shall type the name of the voter permitted to vote by absentee ballot on the application form for that person's use and no other. The absentee ballot application form shall be in the form prescribed by the State Board of Elections, shall bear the seal of the county clerk, and shall contain the following information: name, residential address, precinct, party affiliation, statement of the reason the person cannot vote in person on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in the precinct, and the voter's mailing address for an absentee ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (5) shall be printed on the application.
- (3) If the county clerk finds that the voter is properly registered as stated in his or her application and qualifies to receive an absentee ballot by mail, he or she shall mail to the voter an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting. The county clerk shall complete a postal form for a certificate of mailing for ballots mailed within the fifty (50) states, and it shall be stamped by the postal service when the ballots are mailed. An absentee ballot may be transmitted by facsimile machine to a resident of Kentucky who is a member of the Armed Forces, a dependent of a member of the Armed Forces, or a citizen residing overseas.
- (4) Absentee ballots which are requested prior to the printing of the ballots shall be mailed by the county clerk to the voter within three (3) days of the receipt of the printed ballots; and absentee ballots which are requested subsequent to the receipt of the ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of the request.
- (5) The clerk shall cause ballots to be printed fifty (50) days prior to each primary or general election.
- (6) The outer envelope shall bear the words "Absentee Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address, precinct number, and signatures of two (2) witnesses if the voter signs the form with the use of a mark instead of the voter's signature. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number, signatures of two (2) witnesses if the voter signs the form with the use of a mark instead of the voter's signature and notice of penalty provided in KRS 117.995(5). The clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application and the postal form required by subsection (3) of this section for twenty-two (22) months after the election.
- (7) Any person who has received an absentee ballot by mail but who knows at least seven (7) days before the date of the election that he or she will be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his or her absentee ballot and vote in person. The voter shall return the absentee ballot to the county clerk's office no later than seven (7) days prior to the date of the election. Upon the return of the absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent absentee ballots, and the voter may vote in the precinct in which he or she is properly registered.
- (8) Any voter qualified for a mail-in absentee ballot who does not receive a requested mail-in ballot within a reasonable amount of time shall contact the county clerk, who shall reissue a second ballot. The county clerk shall keep a record of the absentee ballots issued and returned by mail, and the absentee voting that is performed on the voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections, to verify that only the first voted ballot to be returned by the voter is counted. Upon the return of any ballot after the first ballot is returned, the clerk shall mark on the outer envelope of the sealed ballot the words "Canceled because ballot reissued."
- (9) Any member of the military who has received an absentee ballot by mail but who knows that he or she will be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his or her absentee ballot and vote in person. The voter shall return the absentee ballot to the county clerk's office on or before election day. Upon the return of the absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent absentee ballots, provide the voter with written authorization to vote at the precinct, and the voter may vote in the precinct in which he or she is properly registered.

Signed by Governor March 22, 2013.

CHAPTER 88

(HB 232)

AN ACT relating to debts owed to local governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 44.001 is amended to read as follows:

As used in this chapter:

- (1) ***"Local government" means any city, county, urban-county government, consolidated local government, charter county government, or unified local government of the Commonwealth; and***
- (2) ~~["Writing" or "written" means letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation.~~

➔Section 2. KRS 44.030 is amended to read as follows:

- (1) No money shall be paid to any person on a claim against the state in his ***or her*** own right, or as an assignee of another, when the person or the person's assignor is indebted to the state or any ***local government***~~{county, city, urban-county government, consolidated local government, or charter county government duly organized in this state}~~. The claim, to the extent it is allowed, shall first be credited to the account of the person~~{so}~~ indebted to the state, and if there is any balance due the person after settling the whole demand of the state, any certified liquidated debts of any ***local government***~~{county, city, urban-county government, consolidated local government, or charter county government of this state}~~ shall be paid ***if the local government provides information concerning the liquidated debt to the State Treasurer***. If there is any balance due the person after settling the whole demand of the state ***or local***~~{, counties, cities, urban-county governments, consolidated local governments, or charter county}~~ governments, and if there are not liquidated debts certified against the claim pursuant to KRS 44.065, that balance shall be paid to the person.
- (2) In case of multiple claims by state agencies, the claims shall be paid as follows:
 - (a) First, to any claim made by the Cabinet for Health and Family Services for past due child support obligations;
 - (b) Second, to any claim filed by the Finance and Administration Cabinet, Department of Revenue, for taxes owed the Commonwealth; and
 - (c) Third, to all other state agencies in the order that the claims were filed with the ***State*** Treasury.
- (3) In the case of multiple claims filed by ***any local government***~~{any county, city, urban-county government, consolidated local government, or charter county government duly organized in this state}~~, the claims shall be paid in the order that the claims were filed with the ***State*** Treasury.
- (4) ***No money shall be paid to any person on a claim against a local government in his or her own right, or as an assignee of another, when the person or the person's assignor is indebted to the local government or the state. The claim, to the extent it is allowed, shall first be credited to any debt of the person indebted to the local government, and if there is any balance due the person after settling the whole demand of the local government, any certified liquidated debts of the state shall be paid if the state provides the local government with information concerning the liquidated debt. If there is any balance due the person after settling the whole demand of the local government or the state, that balance shall be paid to the person.***
- (5) The Finance and Administration Cabinet shall provide the Cabinet for Health and Family Services with a quarterly report of all tort claims made against the state by individuals that the Cabinet for Health and Family Services shall compare with the child support database to match individuals who have a child support arrearage and may receive a settlement from the state.

~~(6)(5)~~ Each organizational unit and administrative body in the executive branch of state government, as defined in KRS 12.010, ~~and~~ the Court of Justice in the judicial branch of state government, **and, where feasible, any local government** shall provide information to the State Treasurer concerning any debt it has referred to the Department of Revenue for collection under KRS 45.241.

~~(7)(6)~~ Each agency, ~~and~~ the Court of Justice, **and, where feasible, any local government** shall provide information to the State Treasurer concerning any debt referred to the Department of Revenue for collection under KRS 45.237.

➔ Section 3. KRS 45.237 is amended to read as follows:

(1) As used in KRS 45.237 to 45.239:

(a) "Agency" means an organizational unit or administrative body in the executive branch of state government as defined in KRS 12.010;

(b) **"Cabinet" means the Finance and Administration Cabinet;**

(c) **"Court of Justice" means the Administrative Office of the Courts, all courts, and all clerks of the courts;**

(d) **"Debt" means:**

1. **For agencies, a sum certain which has been certified as due and owing;**

2. **For local governments, a sum certain which has been certified as due and owing, including but not limited to any delinquent taxes or fees other than delinquent real and personal property taxes; and**

3. **For the Court of Justice, a legal debt, including any fine, fee, court costs, or restitution due the Commonwealth, which have been imposed by a final sentence of a trial court of the Commonwealth and for which the time permitted for payment pursuant to KRS 23A.205(3) or 24A.175(4) has expired;**

(e) "Department" means the Department of Revenue;

~~(f)(e)~~ ~~"Court of Justice" means the Administrative Office of the Courts, all courts, and all clerks of the courts;~~

~~(d)~~ "Improper payment" means a payment made to a vendor, provider, or recipient due to error, fraud, or abuse; and

(g) **"Local government" means any city, county, urban-county government, consolidated local government, charter county government, or unified local government of the Commonwealth** ~~(e)~~
 ——— **"Debt" means:**

1. ~~A sum certain which has been certified by an agency as due and owing; and~~

2. ~~For the Court of Justice, "debt" means a legal debt, including any fine, fee, court costs, or restitution due the Commonwealth, which have been imposed by a final sentence of a trial court of the Commonwealth and for which the time permitted for payment pursuant to the provisions of KRS 23A.205(3) or 24A.175(4) has expired.~~

(2) ~~The Finance and Administration~~ cabinet shall develop for the executive branch of state government a system of internal controls and preaudit policies and procedures applicable to disbursement transactions for the purpose of prevention and detection of errors or fraud and abuse prior to the issuance of a check or warrant. The initial policies and procedures shall ~~be established and implemented no later than October 1, 2004, and shall~~ focus first on programs or activities that expend the most federal and general fund dollars. ~~The Finance and Administration~~ cabinet shall develop preaudit procedures that meet the unique needs of each agency.

(3) In establishing these systems of internal control and preaudit policies and procedures, ~~the Finance and Administration~~ cabinet shall:

(a) Consult with each agency within the executive branch to ascertain its unique fraud risks;

(b) Establish policies and procedures for agency-level oversight of fraud risks, including risk assessment, risk tolerance, and management policies, and fraud-prevention processing controls;

(c) Establish systems and procedures for detecting both unintentional errors and fraudulent misrepresentations that may have occurred in vendor invoices submitted for payment, applications

- submitted for benefits, claims for refunds of amounts previously paid or withheld, and other disbursements;
- (d) Establish systems and procedures for preventing and detecting unintentional errors and the fraudulent disbursement of funds by state government employees in the processing, approving, and paying of invoices, refunds, vouchers, benefit payments, and other disbursements; and
 - (e) Consult with the state Auditor of Public Accounts, the Commonwealth Office of Technology, the American Institute of Certified Public Accountants, the Association of Certified Fraud Examiners, law enforcement agencies, or any other entity with knowledge and expertise in the detection and prevention of fraud.
- (4) Each agency shall diligently attempt to collect amounts paid to a vendor, provider, or recipient due to error, fraud, or abuse for sixty (60) days after the improper payment is discovered. If the improper payment has not been recovered after sixty (60) days, the agency shall certify the improper payment as a debt of the agency and shall refer all certified debts to the department.
- (5) *A local government may, after making reasonable efforts to collect its debts, by ordinance, resolution, or otherwise pursuant to law, certify its debts that have been due and owing for more than ninety (90) days to the department for collection. The department may, by administrative regulation promulgated in accordance with KRS Chapter 13A, prescribe the form and format of, and the information required in, referrals by a local government, which may be required to be made electronically.*
- (6) Any funds recovered by an agency within the sixty (60) day collection period allowed under subsection (4) of this section and prior to referral to the department shall be allocated to the fund from which the improper payment was expended.
- ~~(7)~~(6) Each agency shall submit annual summaries of debts due to error, fraud, or abuse, improper payments discovered, and certified debts referred to the department to the Legislative Research Commission. These summaries shall include but not be limited to:
- (a) Debts owed the Commonwealth that have been identified by the agency, in accordance with the preaudit procedures established under this section, as those resulting from error, fraud, or abuse, of either the payee or the state agency;
 - (b) The aggregate amount of money collected by the agency on those debts during the sixty (60) day period allowed under subsection (4) of this section; and
 - (c) The aggregate amount of certified debts that the agency referred to the department.
- ~~(8)~~(7) Each agency shall provide information about each debt due to error, fraud, or abuse that is certified under this section to the State Treasurer for the Treasurer's action under KRS 44.030(1).
- (9) *Each local government shall, where feasible, provide information about each debt that is certified pursuant to this section to the State Treasurer for the Treasurer's action under subsection (1) of Section 2 of this Act.*
- ➔Section 4. KRS 45.238 is amended to read as follows:
- (1) Debts that are certified by an agency *or by a local government* as provided in KRS 45.237 shall be referred to the department for collection. The department shall be vested with all the powers necessary to collect any referred debts.
 - (2)
 - (a) For those debts deemed unfeasible or cost ineffective to pursue, the department shall maintain written records of the debt and the reason the debt was deemed unfeasible or cost ineffective to pursue.
 - (b) *In the case of agencies*, these debts shall be written off in accordance with administrative regulations promulgated under the authority of subsection (6) of this section.
 - (c) *In the case of local governments, these debts shall be returned to the referring local government for further action.*
 - (3)
 - (a) All certified debts *of agencies* received by the department after the sixty (60) day collection period allowed in KRS 45.237(4), *and all certified debts of a local government received by the department after the ninety (90) day collection period allowed by subsection (5) of Section 3 of this Act*, shall be subject to:

1. Interest at the tax interest rate determined under KRS 131.183~~[,]~~ on the amount of the debt ***plus all accruals authorized by law***, from the date the debt is certified to the department until it is satisfied;~~[,]~~ and
 2. A ***one (1) time*** twenty-five percent (25%) collection fee ***imposed on the amount of the debt plus all accruals authorized by law, as of the time of referral.***
- (b) The department may retain the collection fee.
 - (c) ***In the case of agencies and the Court of Justice***, recovered funds and interest may, at the discretion of the secretary of the Finance and Administration Cabinet, be returned to the agency certifying the debt or improper payment or to the Court of Justice for allocation as otherwise provided by law. If the recovered funds and interest are not returned to the agency or Court of Justice, the amounts shall be deposited in the budget reserve trust fund established in KRS 48.705, except for Medicaid benefits and funds required by law to be remitted to a federal agency.
 - (d) ***In the case of local governments, recovered funds and interest shall be returned to the referring local government for allocation as provided by ordinance, resolution, or as otherwise provided by law.***
- (4) The commissioner of the department may refer to the Attorney General any unsatisfied claim, demand, account, or judgment in favor of the Commonwealth for further civil or criminal action under KRS 15.060.
 - (5) (a) The department shall report annually by October 1 to the Legislative Research Commission on all referred certified debts, including at least a summary of the debts by agency, fund type, and age, the latter compiled in the following four (4) categories:
 1. Debts from ninety (90) to one hundred seventy-nine (179) days old;
 2. Debts from one hundred eighty (180) to three hundred sixty-four (364) days old;
 3. Debts over one (1) year old but less than three (3) years old; and
 4. Debts three (3) years old or older.
 - (b) The annual report shall also include the collection amount of the debts in paragraph (a) of this subsection and the accounts to which the amounts are credited.
 - (6) The department shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish standards that agencies shall use in determining when to write debts off the books.
 - (7) ***This section shall not affect the collection of delinquent taxes by sheriffs or county attorneys under KRS 91A.070 or 134.504.***

→Section 5. KRS 45.241 is amended to read as follows:

- (1) As used in this section:
 - (a) "Debt" means:
 1. ***For agencies, a sum certain which has been certified by an agency as due and owing; and***
 2. ***For local governments, a sum certain which has been certified by a local government as due and owing, including but not limited to any delinquent taxes or fees other than delinquent real and personal property taxes***~~[a sum certain which has been certified by an agency as due and owing];~~
 - (b) "Liquidated debt" means:
 1. ***For agencies, a legal debt for a sum certain which has been certified by an agency as final due and owing, all appeals and legal actions having been exhausted;***
 2. ***For local governments, a legal debt for a sum certain which has been certified by a local government as final due and owing, all appeals and legal actions having been exhausted, including but not limited to any delinquent taxes or fees other than delinquent real and personal property taxes; and***
 3. For the Court of Justice,~~[means]~~ a legal debt including any fine, fee, court costs, or restitution due the Commonwealth, which have been imposed by a final sentence of a trial court of the Commonwealth and for which the time permitted for payment pursuant to the provisions of KRS 23A.205(3) or 24A.175(4) has expired;

- (c) "Agency" means an organizational unit or administrative body in the executive branch of state government, as defined in KRS 12.010;
 - (d) "Department" means the Department of Revenue;
 - (e) "Court of Justice" means the Administrative Office of the Courts, all courts, and all clerks of the courts;
 - (f) "Forgivable loan agreement" means a loan agreement entered into between an agency and a borrower that establishes specific conditions, which, if satisfied by the borrower, allows the agency to forgive a portion or all of the loan;~~and~~
 - (g) "Improper payment" means a payment made to a vendor, provider, or recipient due to error, fraud, or abuse; *and*
 - (h) *"Local government" means any city, county, urban-county government, consolidated local government, charter county, or unified local government of the Commonwealth.*
- (2) Each agency and the Court of Justice shall develop, maintain, and update in a timely manner an ongoing inventory of each debt owed to it, including debts due to improper payments, and shall make every reasonable effort to collect each debt. Within sixty (60) days after the identification of a debt, each agency shall begin administrative action to collect the debt.
- (3) The Auditor of Public Accounts shall review each agency's debt identification and collection procedures as part of the annual audit of state agencies.
- (4) An agency shall not forgive any debt owed to it unless that agency has entered into a forgivable loan agreement with a borrower, or unless otherwise provided by statute.
- (5) For those agencies without statutory procedures for collecting debts, the Department of Revenue shall promulgate administrative regulations in accordance with KRS Chapter 13A to prescribe standards and procedures with which those agencies shall comply regarding collection of debts, notices to persons owing debt, information to be monitored concerning the debts, and an appeals process.
- (6) (a) Each agency and the Court of Justice shall identify all liquidated debts, including debts due to improper payments, and shall submit a list of those liquidated debts in the form and manner prescribed by the department to the department for review. The department shall review the information submitted by the agencies and the Court of Justice and shall, within ninety (90) days of receipt of the information, determine whether it would be cost-effective for the department to further pursue collection of the liquidated debts.
- (b) *A local government, after making reasonable efforts to collect its debts, may by ordinance, resolution, or otherwise pursuant to law, submit a list of its liquidated debts that have been due and owing for more than ninety (90) days to the department for review to determine whether it would be cost-effective for the department to pursue collection of the liquidated debts. The department shall review the information submitted by a local government and shall, within ninety (90) days of receipt of the information, determine whether it would be cost-effective for the department to further pursue collection of the liquidated debts.*
- (c)~~(a)~~ The department may, after consultation with the agency,~~or the~~ Court of Justice, *or a local government*, return the liquidated debt to the entity submitting the liquidated debt if:
1. The request for review contains insufficient information; or
 2. The debt is not feasible to collect.
- Any return of a liquidated debt shall be in writing, and shall state why the debt is being returned.
- (d)~~(b)~~ The department shall identify in writing~~and~~ to the submitting agency,~~or the~~ Court of Justice, *or local government*, the liquidated debts it has determined that it can pursue in a cost-effective manner, and the agency,~~or the~~ Court of Justice, *or local government* shall officially refer the identified liquidated debts to the *department*~~cabinet~~ for collection.
- (e)~~(c)~~ The agency,~~and the~~ Court of Justice, *and local government* shall retain a complete record of all liquidated debts referred to the department for collection until the debt is collected,~~or~~ forgiven, *or returned as uncollectible.*
- (f)~~(d)~~ Each agency,~~and~~ the Court of Justice, *and local government* shall make appropriate accounting of any uncollected debt as prescribed by law.

- (7) (a) If the agency recovers the debt funds prior to referral to the department, the agency shall retain the collected funds in accordance with its statutory authority.
- (b) 1. Upon referral of a liquidated debt to the department, the liquidated debt shall accrue *the following amounts*:
- a. Interest *on the total amount of the debt plus legal accruals at the tax interest rate provided in KRS 131.183*, from the time of referral until paid;~~;~~ and
- b. A *one (1) time* twenty-five percent (25%) collection fee *on the total amount of the debt plus legal accruals, as of the time of referral*;~~;~~~~shall attach~~
- unless the interest and collection fee are waived by the department.
2. The *interest and* collection fee ~~and interest~~ shall be in addition to any other costs accrued prior to the time of referral.
3. The department may deduct and retain from the liquidated debt recovered an amount equal to the lesser of the collection fee or the actual expenses incurred in the collection of the debt.
4. *In the case of agencies and the Court of Justice*, any funds recovered by the department after the deduction of the department's cost of collection expenses may, at the discretion of the secretary of the Finance and Administration Cabinet, be returned to the agency identifying the liquidated debt or to the Court of Justice for allocation as otherwise provided by law. If the recovered funds and interest are not returned to the agency or Court of Justice, the amounts shall be deposited in the general fund, except for Medicaid benefits funds and funds required by law to be remitted to a federal agency, which shall be remitted as required by law.
5. *In the case of local governments, any funds recovered by the department after the deduction of the department's cost of collection expenses shall be returned to the local government referring the liquidated debt, for allocation as provided by ordinance, resolution, or as otherwise provided by law.*
- (c) Nothing in this section shall prohibit the department from entering into a memorandum of agreement with an agency pursuant to KRS 131.130(11), for collection of debts prior to liquidation. If an agency enters into an agreement with the department, the agency shall retain funds collected according to the provisions of the agreement.
- (d) This section shall not affect any agreement between the department and an agency entered into under KRS 131.130(11) that is in effect on July 13, 2004, that provides for the collection of liquidated debts by the department on behalf of the agency.
- (e) This section shall not affect the collection of delinquent taxes by *sheriffs or* county attorneys under KRS *91A.070 or* 134.504.
- (f) This section shall not affect the collection of performance or reclamation bonds.
- (8) Upon receipt of a referred liquidated debt and after its determination that the debt is feasible and cost-effective to collect, the department shall pursue collection of the referred debt in accordance with KRS 131.030.
- (9) By administrative regulation promulgated under KRS Chapter 13A, the department shall prescribe the electronic format and form of, and the information required in, a referral.
- (10) (a) The department shall report annually by October 1 to the Interim Joint Committee on Appropriations and Revenue on the collection of debts, including debts due to improper payments, *referred by agencies and the Court of Justice*. The report shall include the total amount by agency and fund type of liquidated debt that has been referred to the department; the amount of each referring agency's liquidated debt, by fund type, that has been collected by the department; and the total amount of each referring agency's liquidated debt, by fund type, that the department determined to be cost-ineffective to collect, including the reasons for the determinations.
- (b) Each cabinet shall report annually by October 1 to the Interim Joint Committee on Appropriations and Revenue on:
1. The amount of previous fiscal year unliquidated debt by agency, including debts due to improper payments, fund type, category, and age, the latter to be categorized as less than one (1) year, less than five (5) years, less than ten (10) years, and over ten (10) years; and

2. The amount, by agency, of liquidated debt, including debts due to improper payments, not referred to the department; a summary, by criteria listed in subsection (6)(a) of this section, of reasons the department provided for not requesting referral of those liquidated debts; and a summary of the actions each agency is taking to collect those liquidated debts.
- (c) Beginning on October 1, 2005, the Court of Justice shall report annually by October 1 of each year to the Interim Joint Committee on Appropriations and Revenue the amount of previous fiscal year unliquidated debt by county and whether in the Circuit Court or District Court; and fund type and age, the latter categorized as less than one (1) year, less than five (5) years, less than ten (10) years, and over ten (10) years. The first year for which the Court of Justice shall be required to report is the fiscal year beginning on July 1, 2004 and ending on June 30, 2005. The Court of Justice shall not be required to report unliquidated debts in existence prior to July 1, 2004.
- (d) The Finance and Administration Cabinet shall report annually by October 1 to the Interim Joint Committee on Appropriations and Revenue on the amount of the General Government Cabinet's unliquidated debt by agency, fund type, and age, the latter categorized as less than one (1) year, less than five (5) years, less than ten (10) years, and over ten (10) years.
- (11) At the time of submission of a liquidated debt to the department for review, the referring agency, ~~or~~ the Court of Justice, **or, where feasible, the local government** shall provide information about the debt to the State Treasurer for the Treasurer's action under KRS 44.030(1).

➔Section 6. KRS 131.030 is amended to read as follows:

- (1) The Department of Revenue shall exercise all administrative functions of the state in relation to the state revenue and tax laws, the licensing and registering of motor vehicles, the equalization of tax assessments, the assessment of public utilities and public service corporations for taxes, the assessment of franchises, the supervision of tax collections, and the enforcement of revenue and tax laws, either directly or through supervision of tax administration activity in other departments to which the department ~~of Revenue~~ may commit administration of certain taxes.
- (2) The department ~~of Revenue~~ shall have all the powers and duties with reference to assessment or equalization of the assessment of property heretofore exercised or performed by any state board or commission.
- (3) The department ~~of Revenue~~ shall have all the powers and duties necessary to consider and settle tax cases under KRS 131.110 and refund claims made under KRS 134.580. The department ~~of Revenue~~ is encouraged to settle controversies on a fair and equitable basis and shall be authorized to settle tax controversies based on the hazards of litigation applicable to them.
- (4) The department ~~of Revenue~~ shall have all the powers and duties necessary to collect any debts owed to the Commonwealth, **or any local government of the Commonwealth**, that are referred to the department by an organizational unit or administrative body in the executive branch of state government, as defined in KRS 12.010, ~~and by~~ the Court of Justice in the judicial branch of state government, **and any local government**, under **Section 3 of this Act and** KRS 45.241.

➔Section 7. KRS 131.565 is amended to read as follows:

- (1) For purposes of **KRS 131.560 to 131.595** ~~this section~~, "state agency" or "state agencies" shall include the Court of Justice **and any local government**, as **those terms are** defined in KRS 45.241.
- (2) No state agency shall request the withholding of any individual income tax refund unless there is specific provision in statute, ~~or~~ administrative regulation, **or, in the case of a local government, ordinance**, for debtor appeal and hearing rights for that particular debt.
- (3) State agencies having the statutory, ~~and~~ regulatory, **or other legal** provisions described in subsection (2) of this section shall establish claims against Kentucky individual income tax refunds by notifying the commissioner of revenue in writing by a date established by the department ~~of Revenue~~ and, by dates agreed to by the department ~~of Revenue~~ and each state agency, shall furnish a list of all liquidated debts due the agency for which withholding is required for individual income tax refunds due to be paid to the debtor of the claimant agency. This list shall be submitted in such form and contain such information as may be required by the commissioner of revenue to facilitate identification of the refunds to be withheld. As used in this section the term "liquidated debt" means a legal debt for a sum certain, which has been certified by the claimant agency as final due and owing. The claimant agency must have made reasonable efforts to collect such debt, and must have provided the debtor the opportunity for appeal and formal hearing as provided by statute, **administrative regulation, or local ordinance**. The claimant agency shall send thirty (30) days' prior written

notification to the debtor of the intention to submit the claim to the department~~[of Revenue]~~ for setoff as provided in KRS 131.570.

- (4) The individual income tax refund withholding procedures provided in KRS 131.560 to 131.595 shall be in lieu of the procedures set forth in KRS 427.130 and 44.030 only with regard to sums due to a debtor from the department~~[of Revenue]~~.
- (5) No state agency shall request the withholding of any individual income tax refund unless the debt for which withholding is requested is in a liquidated amount.
- (6) Each state agency requesting the withholding of any individual income tax refund shall indemnify the department~~[of Revenue]~~ against any and all damages, court costs, attorneys fees and any other expenses related to litigation which arises concerning the administration of KRS 131.560 to 131.595 as it pertains to a refund withholding action requested by such agency.
- (7) Those state agencies requesting the withholding of individual income tax refunds shall, on a per unit cost or other equitable basis determined by the department~~[of Revenue]~~, reimburse the department~~[of Revenue]~~ for all development, implementation and administration costs incurred but not otherwise funded under the provisions of KRS 131.560 to 131.595.
- (8) The department~~[of Revenue]~~ may decline the withholding of individual income tax refunds from agencies if the request would adversely impact the operation of the department~~[of Revenue]~~.

➔Section 8. KRS 131.570 is amended to read as follows:

- (1) Upon determining that a pending individual income tax refund is subject to setoff as authorized under this section, the debtor shall be notified in writing by the department~~[of Revenue]~~ of the claim made against such refund by the named claimant agency, and of the ~~department's~~~~[Department of Revenue's]~~ intention to set off the refund against the debt to the claimant agency. The notice shall provide that the debtor within thirty (30) days from the date of the notice may request a hearing before the claimant agency as provided by statute *or local ordinance*. No issues at such hearing may be considered that have been litigated previously and the debtor, after being given due notice of rights of appeal, must exercise such rights in a timely manner. The decision of the claimant agency shall be subject to appeal as all other decisions rendered by the claimant agency. No funds shall be transferred to a claimant agency until the debtor's appeal rights have been exhausted.
- (2) Any excess of the pending refund amount over the total claim filed against such refund shall be promptly issued to the taxpayer by the department~~[of Revenue]~~.
- (3) In the event funds transmitted to a claimant agency are subsequently determined by the claimant agency to be in excess of the liquidated debt, such claimant agency shall promptly refund the excess to the taxpayer.
- (4) In the event the department~~[of Revenue]~~ erroneously transfers funds to a claimant agency, the claimant agency shall immediately upon notification thereof reimburse the department~~[of Revenue]~~ for the amount erroneously transmitted to such agency. The department~~[of Revenue]~~ shall promptly refund to the taxpayer the appropriate amount of such returned funds with interest as provided in KRS 131.183(2).

Signed by Governor March 22, 2013.

CHAPTER 89

(HB 238)

AN ACT relating to the Court of Justice, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 401.010 is amended to read as follows:

Any person at least eighteen (18) years of age may have his *or her* name changed by the District Court of the county in which he *or she* resides. If he *or she* resides on a United States Army post, military reservation or fort his *or her* name may be changed by the District Court of any county adjacent thereto.

➔Section 2. KRS 401.020 is amended to read as follows:

Both parents, provided both are living, or one (1) parent if one (1) is deceased, or if no parent is living, the guardian, may have the name of a child under the age of eighteen (18) changed by the District Court, *or if the Family Court or Circuit Court has a case before it involving the family, the Family Court of a county with a Family Court, or the Circuit Court of a county without a Family Court* of the county in which the child resides. However, if one (1) parent refuses or is unavailable to execute the petition, proper notice of filing the petition shall be served in accordance with the Rules of Civil Procedure. If the child resides on a United States Army post, military reservation or fort his *or her* name may be changed by the District Court, *or the Family Court of a county with a Family Court, or the Circuit Court of a county without a Family Court* of any county adjacent thereto.

➔Section 3. KRS 401.030 is amended to read as follows:

The original name, age and place of birth, the name to which the change is made, and the names of the infant's father and mother, if known, and of the person on whose motion the change is made shall be entered on the order book of the District Court, *Family Court, or Circuit Court in which the action was brought and is authorized to do so pursuant to Section 2 of this Act.*

➔Section 4. KRS 401.040 is amended to read as follows:

- (1) If the District Court, *Family Court, or Circuit Court, as authorized by Section 2 of this Act*, orders any person's name to be changed under this chapter, a copy of the order shall be certified by the clerk of that court to the county clerk, for record.
- (2) The county clerk shall keep an alphabetical index for each book of records, referring to the page on which each person's name change appears, and giving the name from and to which it is changed.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 27A IS CREATED TO READ AS FOLLOWS:

The Administrative Office of the Courts shall require that any updates to or replacements of the centralized criminal history record information system established by this chapter or any case management software utilized in the offices of the Commonwealth's circuit clerks have the capability for those felony cases that reach final disposition with a conviction for a misdemeanor only to be redesignated with the same type of case designators as those used for cases that are initiated as misdemeanor cases.

➔Section 6. Notwithstanding any provisions of the Kentucky Revised Statutes to the contrary, the State Property and Buildings Commission or the Kentucky Asset/Liability Commission shall issue the agency bonds authorized in this Act on behalf of the judicial branch of the Commonwealth of Kentucky.

➔Section 7. There is hereby appropriated to the Judicial Branch from Restricted Funds \$3,229,400 in fiscal year 2013-2014 for debt service to support Agency Bonds as set forth in this section. There is hereby authorized and appropriated \$28,100,000 in Agency Bonds in fiscal year 2012-2013 for Phase I E-Case and Docket Management system.

➔Section 8. (1) It is the intent of the 2013 General Assembly that the Judicial Branch should not base any decision to proceed with any capital project authorized in Section 7 of this Act on an expectation of receiving General Fund moneys in future biennia.

(2) All appropriations and authorizations to capital projects in Section 7 of this Act shall expire on June 30, 2014, unless reauthorized.

➔Section 9. Whereas it is imperative that the commencement of this capital project begin in fiscal year 2012-2013, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon it otherwise becoming law.

Signed by Governor March 22, 2013.

CHAPTER 90

(HB 240)

AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act, unless the context requires otherwise:

- (1) *"Board" means the Board of the Kentucky Center for Education and Workforce Statistics established in subsection (1) of Section 4 of this Act;*
- (2) *"De-identification" means a process for removing identity information so the education data and workforce data can be analyzed without disclosing the identity of the individuals or employers whose data are being utilized;*
- (3) *"Education data" means the following data relating to student performance from early childhood learning programs through postsecondary education:*
 - (a) *College and career readiness;*
 - (b) *Course and grade;*
 - (c) *Degree, diploma, or credential attainment;*
 - (d) *Demographic;*
 - (e) *Educator;*
 - (f) *Enrollment;*
 - (g) *Financial aid;*
 - (h) *High school equivalency diploma;*
 - (i) *Remediation;*
 - (j) *Retention;*
 - (k) *State and national assessments;*
 - (l) *Transcripts;*
 - (m) *Vocational and technical education information; and*
 - (n) *Any other data impacting education deemed necessary by the office;*
- (4) *"Kentucky Longitudinal Data System" is a statewide data system that contains education data and workforce data;*
- (5) *"Office" means the Office for Education and Workforce Statistics established in subsection (1) of Section 2 of this Act; and*
- (6) *"Workforce data" means data relating to:*
 - (a) *Certification and licensure;*
 - (b) *Employer information;*
 - (c) *Employment status;*
 - (d) *Geographic location of employment;*
 - (e) *Job service and training information to support enhanced employment opportunities;*
 - (f) *Wage information; and*
 - (g) *Any other data impacting the workforce deemed necessary by the office.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

- (1) *The Office for Education and Workforce Statistics is hereby established and attached to the Education and Workforce Development Cabinet, Office of the Secretary.*
- (2) *The office's purpose is to collect accurate education data and workforce data in the Kentucky Longitudinal Data System in order to link the data and generate timely reports about student performance through*

employment to be used to guide decision makers in improving the Commonwealth of Kentucky's education system and training programs.

- (3) *The office shall be headed by an executive director appointed by the Governor pursuant to KRS 12.050. The executive director shall be appointed from nominations made to the Governor by the board. The office may employ additional staff necessary to carry out the office's duties consistent with available funding and state personnel laws.*
- (4) *The public agencies providing education data and workforce data to the Kentucky Longitudinal Data System shall be:*
 - (a) *The Council on Postsecondary Education;*
 - (b) *The Department of Education;*
 - (c) *The Early Childhood Advisory Council;*
 - (d) *The Education Professional Standards Board;*
 - (e) *The Kentucky Higher Education Assistance Authority;*
 - (f) *The Kentucky Commission on Proprietary Education; and*
 - (g) *Other agencies of the Education and Workforce Development Cabinet.*
- (5) *The Kentucky Longitudinal Data System, upon approval of the board, may include education data and workforce data from any additional public agency.*
- (6) *Any private institution of higher education, private school, or parochial school, upon approval of the board, may provide education data and workforce data to the Kentucky Longitudinal Data System.*
- (7) *Any education data or workforce data provided to the Kentucky Longitudinal Data System shall be certified to be accurate by the providing agency, institution, or school. Ownership of data provided shall be retained by the providing entity.*
- (8) *The office may receive funding for its operation of the Kentucky Longitudinal Data System from the following sources:*
 - (a) *State appropriations;*
 - (b) *Federal grants;*
 - (c) *User fees; and*
 - (d) *Any other grants or contributions from public agencies or other entities.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

The duties of the Office for Education and Workforce Statistics shall be to:

- (1) *Oversee and maintain the warehouse of education data and workforce data in the Kentucky Longitudinal Data System;*
- (2) *Develop de-identification standards and processes using modern statistical methods;*
- (3) *Conduct research and evaluation regarding federal, state, and local education and training programs at all levels;*
- (4) *Audit and ensure compliance of education and training programs with applicable federal and state requirements as authorized by federal and state law;*
- (5) *Define statewide education, workforce development, and employment metrics;*
- (6) *Work with public agencies and other entities to ensure the integrity and quality of data being collected;*
- (7) *Link education data and workforce data from multiple sources for consideration in developing broad public policy initiatives;*
- (8) *Develop requirements and definitions for data to be provided by any public agency, private institution of higher education, private school, or parochial school;*
- (9) *Develop a reasonable fee schedule for services provided;*

- (10) *Establish data quality standards;*
- (11) *Promulgate administrative regulations necessary for the proper administration of the Kentucky Longitudinal Data System;*
- (12) *Ensure compliance with the federal Family Educational Rights and Privacy Act, 20 U.S.C. sec 1232g, and all other relevant federal and state privacy laws;*
- (13) *Respond to approved research data requests in accordance with the data access and use policy established by the board; and*
- (14) *Enter into contracts or other agreements with appropriate entities, including but not limited to federal, state, and local agencies, to the extent necessary to carry out its duties and responsibilities only if such contracts or agreements incorporate adequate protections with respect to the confidentiality of any information to be shared.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

- (1) *The Board of the Kentucky Center for Education and Workforce Statistics is hereby established and attached to the Education and Workforce Development Cabinet, Office of the Secretary.*
- (2) *The board shall be composed of:*
 - (a) *The commissioner of the Department of Education or designee;*
 - (b) *The executive director of the Education Professional Standards Board or designee;*
 - (c) *The president of the Council on Postsecondary Education or designee;*
 - (d) *The secretary of the Education and Workforce Development Cabinet or designee; and*
 - (e) *The executive director of the Kentucky Higher Education Assistance Authority.*
- (3) *The duties and functions of the board shall be to:*
 - (a) *Develop a detailed data access and use policy for requests that shall include but not be limited to the following:*
 - 1. *Direct access to data in the Kentucky Longitudinal Data System shall be restricted to authorized staff of the office;*
 - 2. *Data or information that may result in any individual or employer being identifiable based on the size or uniqueness of the population under consideration may not be reported in any form by the office; and*
 - 3. *The office may not release data or information if disclosure is prohibited under relevant federal or state privacy laws;*
 - (b) *Establish the research agenda of the office;*
 - (c) *Make nominations to the Governor for the appointment of an executive director;*
 - (d) *Oversee compliance by the office with the federal Family Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g, and other relevant federal and state privacy laws; and*
 - (e) *Provide general oversight of the office.*
- (4) *The secretary of the Education and Workforce Development Cabinet shall serve as chair of the board.*
- (5) *The board shall meet at least semiannually and at other times upon the call of the chair. The meetings shall be subject to the open meetings requirements of KRS 61.800 to 61.850 and 61.991.*
- (6) *The board may form committees, work groups, or advisory councils to accomplish its purposes.*

➔Section 5. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected

officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
4. Department of Law.
 - (a) Attorney General.
5. Department of the Treasury.
 - (a) Treasurer.
6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

1. Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Office of Drug Control Policy.
 - (g) Office of Legal Services.
 - (h) Office of the Kentucky State Medical Examiner.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Office of Legislative and Intergovernmental Services.
 - (l) Office of Management and Administrative Services.
 - (m) Office of Investigations.
 - (n) Department for Public Advocacy.
2. Education and Workforce Development Cabinet:
 - (a) Office of the Secretary.
 1. Governor's Scholars Program.
 - (b) Office of Legal and Legislative Services.
 1. Client Assistance Program.
 - (c) Office of Communication.

- (d) Office of Budget and Administration.
 - 1. Division of Human Resources.
 - 2. Division of Administrative Services.
 - 3. Division of Technology Services.
 - (e) Office of Educational Programs.
 - (f) *Office for Education and Workforce Statistics.*
 - (g) *Board of the Kentucky Center for Education and Workforce Statistics.*
 - (h) Board of Directors for the Center for School Safety.
 - (i)~~(g)~~ Council on Postsecondary Education.
 - 1. Foundation for Adult Education.
 - (j)~~(h)~~ Department of Education.
 - 1. Kentucky Board of Education.
 - (k)~~(i)~~ Department for Libraries and Archives.
 - (l)~~(j)~~ Department of Workforce Investment.
 - 1. Office for the Blind.
 - 2. Office of Vocational Rehabilitation.
 - 3. Office of Career and Technical Education.
 - 4. Office of Employment and Training.
 - (m)~~(k)~~ Foundation for Workforce Development.
 - (n)~~(l)~~ Kentucky Office for the Blind State Rehabilitation Council.
 - (o)~~(m)~~ Kentucky Technical Education Personnel Board.
 - (p)~~(n)~~ Kentucky Workforce Investment Board.
 - (q)~~(o)~~ Statewide Council for Vocational Rehabilitation.
 - (r)~~(p)~~ Statewide Independent Living Council.
 - (s)~~(q)~~ Unemployment Insurance Commission.
 - (t)~~(r)~~ Education Professional Standards Board.
 - 1. Division of Educator Preparation.
 - 2. Division of Certification.
 - 3. Division of Professional Learning and Assessment.
 - 4. Division of Legal Services.
 - (u)~~(s)~~ Kentucky Commission on the Deaf and Hard of Hearing.
 - (v)~~(t)~~ Kentucky Educational Television.
 - (w)~~(u)~~ Kentucky Environmental Education Council.
3. Energy and Environment Cabinet:
- (a) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.
 - 2. Office of General Counsel.
 - a. Environmental Protection Legal Division.
 - 3. Office of Administrative Hearings.

4. Mine Safety Review Commission.
5. Kentucky State Nature Preserves Commission.
6. Kentucky Environmental Quality Commission.
7. Kentucky Public Service Commission.
- (b) Department for Environmental Protection.
 1. Office of the Commissioner.
 2. Division for Air Quality.
 3. Division of Water.
 4. Division of Environmental Program Support.
 5. Division of Waste Management.
 6. Division of Enforcement.
 7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
 1. Office of the Commissioner.
 2. Division of Technical and Administrative Support.
 3. Division of Mine Permits.
 4. Division of Mine Reclamation and Enforcement.
 5. Division of Abandoned Mine Lands.
 6. Division of Oil and Gas.
 7. Office of Mine Safety and Licensing.
 8. Division of Forestry.
 9. Division of Conservation.
- (d) Department for Energy Development and Independence.
 1. Division of Efficiency and Conservation.
 2. Division of Renewable Energy.
 3. Division of Biofuels.
 4. Division of Energy Generation Transmission and Distribution.
 5. Division of Carbon Management.
 6. Division of Fossil Energy Development.
4. Public Protection Cabinet.
 - (a) Office of the Secretary.
 1. Office of Communications and Public Outreach.
 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
 - (b) Crime Victims Compensation Board.

- (c) Board of Claims.
 - (d) Kentucky Board of Tax Appeals.
 - (e) Kentucky Boxing and Wrestling Authority.
 - (f) Kentucky Horse Racing Commission.
 - 1. Division of Licensing.
 - 2. Division of Incentives and Development.
 - 3. Division of Veterinary Services.
 - 4. Division of Security and Enforcement.
 - (g) Department of Alcoholic Beverage Control.
 - 1. Division of Distilled Spirits.
 - 2. Division of Malt Beverages.
 - 3. Division of Enforcement.
 - (h) Department of Charitable Gaming.
 - 1. Division of Licensing and Compliance.
 - 2. Division of Enforcement.
 - (i) Department of Financial Institutions.
 - 1. Division of Depository Institutions.
 - 2. Division of Non-Depository Institutions.
 - 3. Division of Securities.
 - (j) Department of Housing, Buildings and Construction.
 - 1. Division of Fire Prevention.
 - 2. Division of Plumbing.
 - 3. Division of Heating, Ventilation, and Air Conditioning.
 - 4. Division of Building Code Enforcement.
 - (k) Department of Insurance.
 - 1. Property and Casualty Division.
 - 2. Health and Life Division.
 - 3. Division of Financial Standards and Examination.
 - 4. Division of Agent Licensing.
 - 5. Division of Insurance Fraud Investigation.
 - 6. Consumer Protection Division.
 - 7. Division of Kentucky Access.
 - (l) Office of Occupations and Professions.
5. Labor Cabinet.
- (a) Office of the Secretary.
 - 1. Division of Management Services.
 - 2. Office of General Counsel.
 - (b) Office of General Administration and Program Support for Shared Services.
 - 1. Division of Human Resource Management.

2. Division of Fiscal Management.
 3. Division of Budgets.
 4. Division of Information Services.
 - (c) Office of Inspector General for Shared Services.
 - (d) Department of Workplace Standards.
 1. Division of Employment Standards, Apprenticeship, and Mediation.
 2. Division of Occupational Safety and Health Compliance.
 3. Division of Occupational Safety and Health Education and Training.
 4. Division of Workers' Compensation Funds.
 - (e) Department of Workers' Claims.
 1. Office of General Counsel for Workers' Claims.
 2. Office of Administrative Law Judges.
 3. Division of Claims Processing.
 4. Division of Security and Compliance.
 5. Division of Information and Research.
 6. Division of Ombudsman and Workers' Compensation Specialist Services.
 7. Workers' Compensation Board.
 8. Workers' Compensation Advisory Council.
 9. Workers' Compensation Nominating Commission.
 - (f) Workers' Compensation Funding Commission.
 - (g) Kentucky Labor-Management Advisory Council.
 - (h) Occupational Safety and Health Standards Board.
 - (i) Prevailing Wage Review Board.
 - (j) Apprenticeship and Training Council.
 - (k) State Labor Relations Board.
 - (l) Employers' Mutual Insurance Authority.
 - (m) Kentucky Occupational Safety and Health Review Commission.
6. Transportation Cabinet:
- (a) Department of Highways.
 1. Office of Project Development.
 2. Office of Project Delivery and Preservation.
 3. Office of Highway Safety.
 4. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Aviation.
 - (d) Department of Rural and Municipal Aid.
 1. Office of Local Programs.
 2. Office of Rural and Secondary Roads.
 - (e) Office of the Secretary.

1. Office of Public Affairs.
2. Office for Civil Rights and Small Business Development.
3. Office of Budget and Fiscal Management.
4. Office of Inspector General.
- (f) Office of Support Services.
- (g) Office of Transportation Delivery.
- (h) Office of Audits.
- (i) Office of Human Resource Management.
- (j) Office of Information Technology.
- (k) Office of Legal Services.
7. Cabinet for Economic Development:
 - (a) Office of Administration and Support.
 - (b) Department for New Business Development.
 - (c) Department of Financial Incentives.
 - (d) Department for Existing Business Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
 - (g) Office of Research and Information Technology.
 - (h) Department of Commercialization and Innovation.
 - (i) Office of Legal Services.
 - (j) Commission on Small Business Advocacy.
8. Cabinet for Health and Family Services:
 - (a) Office of the Secretary.
 - (b) Office of Health Policy.
 - (c) Office of Legal Services.
 - (d) Office of Inspector General.
 - (e) Office of Communications and Administrative Review.
 - (f) Office of the Ombudsman.
 - (g) Office of Policy and Budget.
 - (h) Office of Human Resource Management.
 - (i) Office of Administrative and Technology Services.
 - (j) Department for Public Health.
 - (k) Department for Medicaid Services.
 - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
 - (m) Department for Aging and Independent Living.
 - (n) Department for Community Based Services.
 - (o) Department for Income Support.
 - (p) Department for Family Resource Centers and Volunteer Services.
 - (q) Kentucky Commission on Community Volunteerism and Service.

- (r) Kentucky Commission for Children with Special Health Care Needs.
 - (s) Governor's Office of Electronic Health Information.
9. Finance and Administration Cabinet:
- (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Office of Policy and Audit.
 - (f) Department for Facilities and Support Services.
 - (g) Department of Revenue.
 - (h) Commonwealth Office of Technology.
 - (i) State Property and Buildings Commission.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - (k) Kentucky Employees Retirement Systems.
 - (l) Commonwealth Credit Union.
 - (m) State Investment Commission.
 - (n) Kentucky Housing Corporation.
 - (o) Kentucky Local Correctional Facilities Construction Authority.
 - (p) Kentucky Turnpike Authority.
 - (q) Historic Properties Advisory Commission.
 - (r) Kentucky Tobacco Settlement Trust Corporation.
 - (s) Kentucky Higher Education Assistance Authority.
 - (t) Kentucky River Authority.
 - (u) Kentucky Teachers' Retirement System Board of Trustees.
 - (v) Executive Branch Ethics Commission.
10. Tourism, Arts and Heritage Cabinet:
- (a) Kentucky Department of Travel and Tourism.
 - (1) Division of Tourism Services.
 - (2) Division of Marketing and Administration.
 - (3) Division of Communications and Promotions.
 - (b) Kentucky Department of Parks.
 - (1) Division of Information Technology.
 - (2) Division of Human Resources.
 - (3) Division of Financial Operations.
 - (4) Division of Facilities Management.
 - (5) Division of Facilities Maintenance.
 - (6) Division of Customer Services.
 - (7) Division of Recreation.
 - (8) Division of Golf Courses.

- (9) Division of Food Services.
- (10) Division of Rangers.
- (11) Division of Resort Parks.
- (12) Division of Recreational Parks and Historic Sites.
- (c) Department of Fish and Wildlife Resources.
 - (1) Division of Law Enforcement.
 - (2) Division of Administrative Services.
 - (3) Division of Engineering.
 - (4) Division of Fisheries.
 - (5) Division of Information and Education.
 - (6) Division of Wildlife.
 - (7) Division of Public Affairs.
- (d) Kentucky Horse Park.
 - (1) Division of Support Services.
 - (2) Division of Buildings and Grounds.
 - (3) Division of Operational Services.
- (e) Kentucky State Fair Board.
 - (1) Office of Administrative and Information Technology Services.
 - (2) Office of Human Resources and Access Control.
 - (3) Division of Expositions.
 - (4) Division of Kentucky Exposition Center Operations.
 - (5) Division of Kentucky International Convention Center.
 - (6) Division of Public Relations and Media.
 - (7) Division of Venue Services.
 - (8) Division of Personnel Management and Staff Development.
 - (9) Division of Sales.
 - (10) Division of Security and Traffic Control.
 - (11) Division of Information Technology.
 - (12) Division of the Louisville Arena.
 - (13) Division of Fiscal and Contract Management.
 - (14) Division of Access Control.
- (f) Office of the Secretary.
 - (1) Office of Finance.
 - (2) Office of Research and Administration.
 - (3) Office of Governmental Relations and Tourism Development.
 - (4) Office of the Sports Authority.
 - (5) Kentucky Sports Authority.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.

- (i) Office of Public Affairs and Constituent Services.
 - (j) Office of Creative Services.
 - (k) Office of Capital Plaza Operations.
 - (l) Office of Arts and Cultural Heritage.
 - (m) Kentucky African-American Heritage Commission.
 - (n) Kentucky Foundation for the Arts.
 - (o) Kentucky Humanities Council.
 - (p) Kentucky Heritage Council.
 - (q) Kentucky Arts Council.
 - (r) Kentucky Historical Society.
 - (1) Division of Museums.
 - (2) Division of Oral History and Educational Outreach.
 - (3) Division of Research and Publications.
 - (4) Division of Administration.
 - (s) Kentucky Center for the Arts.
 - (1) Division of Governor's School for the Arts.
 - (t) Kentucky Artisans Center at Berea.
 - (u) Northern Kentucky Convention Center.
 - (v) Eastern Kentucky Exposition Center.
11. Personnel Cabinet:
- (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Governmental Services Center.
 - (h) Department of Employee Insurance.
 - (i) Office of Diversity and Equality.
 - (j) Center of Strategic Innovation.
- III. Other departments headed by appointed officers:
- 1. Department of Military Affairs.
 - 2. Department for Local Government.
 - 3. Kentucky Commission on Human Rights.
 - 4. Kentucky Commission on Women.
 - 5. Department of Veterans' Affairs.
 - 6. Kentucky Commission on Military Affairs.
 - 7. Office of Minority Empowerment.
 - 8. Governor's Council on Wellness and Physical Activity.

➔Section 6. KRS 164.7885 is amended to read as follows:

- (1) Not later than August 1, 1999, and each June 30 thereafter, each Kentucky high school shall submit to the authority, a compiled list of all high school students during the academic year. A high school shall report the grade point average of an eligible high school student pursuant to KRS 164.7874 by January 15 following the end of the fall academic term in which the student completed the high school graduation requirements. The list shall identify the high school and shall contain each high school student's name, Social Security number, address, grade point average for the academic year, expected or actual graduation date, highest ACT score, family eligibility status for free or reduced-price lunch, and each AP or IB examination score. The Gatton Academy of Mathematics and Science in Kentucky shall report the data on its students to the authority. The list need not contain the ACT, AP, or IB if the authority receives the scores directly from the testing services. The authority shall notify each eligible high school student of his or her Kentucky educational excellence scholarship award earned each academic year. The authority shall determine the final Kentucky educational excellence scholarship and supplemental award based upon the actual final grade point average, highest ACT score, and qualifying AP or IB scores and shall notify each eligible twelfth-grade high school student of the final determination. The authority shall make available a list of eligible high school and postsecondary students to participating institutions.
- (2) The authority shall provide data access only to *the Kentucky Longitudinal Data System and to those* participating institutions that have either received an admission application from an eligible high school or postsecondary student or have been listed by the eligible high school or postsecondary student on the Free Application For Federal Student Aid.
- (3) For each eligible postsecondary student enrolling in a participating institution after July 1, 1999, the participating institution shall verify to the authority:
 - (a) The student's initial eligibility for a Kentucky educational excellence scholarship, Kentucky educational excellence scholarship and supplemental award, or supplemental award only pursuant to KRS 164.7879(3)(d) through the comprehensive list compiled by the authority or an alternative source satisfactory to the authority;
 - (b) The student's highest ACT score attained by the date of graduation from high school, provided that the participating institution need not report the ACT score if the authority receives the ACT score directly from the testing services;
 - (c) The eligible postsecondary student's full-time or part-time enrollment status at the beginning of each academic term; and
 - (d) The eligible postsecondary student's cumulative grade point average after the completion of each award period.
- (4) Each participating institution shall submit to the authority a report, in a form satisfactory to the authority, of all eligible postsecondary students enrolled for that academic term. Kentucky educational excellence scholarships and supplemental awards shall be disbursed by the authority to each eligible postsecondary student attending a participating institution during the academic term within thirty (30) days after receiving a satisfactory report.
- (5) The Kentucky educational excellence scholarship and the supplemental award shall not be reduced, except as provided in KRS 164.7881(4).
- (6) Kentucky educational excellence scholarships and supplemental awards shall not be awarded or disbursed to any eligible postsecondary students who are:
 - (a) In default on any loan under Title IV of the federal act; or
 - (b) Liable for any amounts that exceed annual or aggregate limits on any loan under Title IV of the federal act; or
 - (c) Liable for overpayment of any grant or loan under Title IV of the federal act; or
 - (d) In default on any obligation to the authority under any programs administered by the authority until financial obligations to the authority are satisfied, except that ineligibility may be waived by the authority for cause.
- (7) Notwithstanding the provisions of KRS 164.753, the authority may promulgate administrative regulations for the administration of Kentucky educational excellence scholarships and supplemental awards under the provisions of KRS 164.7871 to 164.7885 and KRS 164.7889.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) *The Council for Educational Research is hereby established.*
- (2) *At least once each year, the council shall advise the Board of the Kentucky Center for Education and Workforce Statistics and the Office for Education and Workforce Statistics on the data needed by colleges of education for conducting education research.*
- (3) *The deans of the colleges of education at each public research and comprehensive university shall serve on the council or appoint a designee from the research faculty in the college of education.*

➔Section 8. The General Assembly confirms Executive Order 2012-1029, dated December 14, 2012, to the extent it is not otherwise confirmed or superseded by this Act.

Signed by Governor March 22, 2013.

CHAPTER 91

(HB 252)

AN ACT relating to reclassification of cities.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Eddyville, in Lyon County, is such as to justify its being classified as a city of the fourth class; and

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Burnside, in Pulaski County, is such to justify its being classified as a city of the fourth class; and

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Taylorsville, in Spencer County, is such as to justify its being classified as a city of the fourth class; and

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Ryland Heights, in Kenton County, is such to justify its being classified as a city of the fifth class;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. The City of Eddyville, in Lyon County, is transferred from the fifth class to the fourth class of cities.

➔Section 2. The City of Burnside, in Pulaski County, is transferred from the fifth class to the fourth class of cities.

➔Section 3. The City of Taylorsville, in Spencer County, is transferred from the fifth class to the fourth class of cities.

➔Section 4. The City of Ryland Heights, in Kenton County, is transferred from the sixth class to the fifth class of cities.

Signed by Governor March 22, 2013.

CHAPTER 92

(HB 261)

AN ACT relating to taken wildlife.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "mounted wildlife specimen" means:*
 - (a) *A legally taken animal, including the skin of the head, cape, or the entire skin, mounted in a lifelike representation of the animal or any part thereof; or*
 - (b) *A European mount in which the horns or antlers and the skull or a portion of the skull are mounted for display.*
- (2) *Notwithstanding KRS 150.180 and no later than January 1, 2014, the department shall promulgate administrative regulations to allow any person or entity to sell or buy mounted wildlife specimens, except as prohibited by federal law.*
- (3) *The administrative regulations promulgated under this section shall establish a means by which each transaction for the sale of mounted wildlife specimens for white-tailed deer, elk, bears, turkeys, and bobcats shall be recorded by the department. The department shall make the recording of each transaction as reasonably convenient for all parties to the transaction as possible, which may include but not be limited to allowing telephone and Internet recording of sales.*
- (4) *Mounted wildlife specimens purchased from or sold to a licensed taxidermist under KRS 150.4111 shall be exempt from the requirements of this section.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "gross score" means the Boone and Crockett score derived by calculating the measurements of the antlers of a white-tailed deer or elk in accordance with subsection (2) of this section.*
- (2) *The gross score of an antlered white-tailed deer or elk shall be calculated in accordance with the Boone and Crockett Club's "Measuring and Scoring North American Big Game Trophies, Third Edition, 2009" and shall be taken by an official Boone and Crockett Club scorer. Measurements taken for the purpose of calculating the gross score may be taken at any time, with no drying time being required.*
- (3) *A person found guilty of a violation of the provisions of this chapter regarding the taking, buying, selling, transporting, or possessing of an antlered white-tailed deer with a gross score of more than one hundred twenty-five (125) inches shall pay to the department an additional restitution value calculated by squaring the difference between the gross score and one hundred (100) and multiplying the resulting number by one dollar and sixty-five cents (\$1.65).*
- (4) *A person found guilty of a violation of the provisions of this chapter regarding the taking, buying, selling, transporting, or possessing of an antlered elk with a gross score of more than two hundred eighty (280) inches shall pay to the department an additional restitution value calculated by squaring the difference between the gross score and two hundred fifty-five (255) and multiplying the resulting number by one dollar and sixty-five cents (\$1.65).*
- (5) *A person found guilty of a violation of the provisions of this chapter regarding the taking, buying, selling, transporting, or possessing of a bear shall pay to the department an additional restitution value of one thousand dollars (\$1,000).*
- (6) *A person found guilty of a violation of the provisions of this chapter regarding the taking, buying, selling, transporting, or possessing of a turkey shall pay to the department an additional restitution value of five hundred dollars (\$500).*
- (7) *A person found guilty of a violation of the provisions of this chapter regarding the taking, buying, selling, transporting, or possessing of a bobcat shall pay to the department an additional restitution value of five hundred dollars (\$500).*
- (8) *The commissioner or designee may bring a civil action to recover the restitution value owed to the department under subsections (3), (4), (5), (6), or (7) of this section. A person who owes restitution to the department under subsections (3), (4), (5), (6), or (7) of this section shall forfeit his or her hunting license or, if license-exempt, the privilege to perform the hunting acts authorized by the license until the restitution owed has been paid.*
- (9) *The restitution required by this section shall be in addition to all other restitution, replacement costs, and civil or criminal penalties authorized by this chapter and the administrative regulations promulgated hereunder.*

Signed by Governor March 22, 2013.

CHAPTER 93**(HB 269)**

AN ACT relating to the Kentucky Environmental Education Council.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 157.915 is amended to read as follows:

The functions of the council shall be to:

- (1) Create and update annually a five (5) year management and operational plan to make as effective as possible the coordination, delivery, and marketing of all state environmental education programs;
- (2) Establish an interagency subcommittee to advise the council on environmental education matters;
- (3) Establish and help coordinate the activities of regional environmental education centers and advisory committees at all state universities ***and at the central office of the Kentucky Community and Technical College System*** to serve as networks for the dissemination of environmental education programs, materials, and information across the state;
- (4) Establish a competitive system for awarding grants for the establishment and maintenance of regional environmental education centers;
- (5) Seek and receive private support to fund state and regional environmental education initiatives;
- (6) Assist in the integration and evaluation of environmental education in existing school curricula;
- (7) Monitor and report periodically on environmental literacy in Kentucky and continually assess trends and needs in environmental education on a local, state, national, and global basis; and
- (8) Make recommendations and seek changes through regulations, legislation, and other means to promote environmental literacy in Kentucky.

Signed by Governor March 22, 2013.

CHAPTER 94**(HB 313)**

AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 132.020 is amended to read as follows:

- (1) The owner or person assessed shall pay an annual ad valorem tax for state purposes at the rate of:
 - (a) Thirty-one and one-half cents (\$0.315) upon each one hundred dollars (\$100) of value of all real property directed to be assessed for taxation;
 - (b) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all privately owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, upon the prior approval of the Kentucky Economic Development Finance Authority, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;
 - (c) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all qualifying voluntary environmental remediation property, provided the property owner has corrected the effect of all known releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum products

located on the property consistent with a corrective action plan approved by the Energy and Environment Cabinet pursuant to KRS 224.01-400, 224.01-405, or 224.60-135, and provided the cleanup was not financed through a public grant or the petroleum storage tank environmental assurance fund. This rate shall apply for a period of three (3) years following the Energy and Environment Cabinet's issuance of a No Further Action Letter or its equivalent, after which the regular tax rate shall apply;

- (d) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all tobacco directed to be assessed for taxation;
- (e) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of unmanufactured agricultural products;
- (f) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations;
- (g) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all livestock and domestic fowl;
- (h) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all tangible personal property located in a foreign trade zone established pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board;
- (i) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all machinery actually engaged in manufacturing;
- (j) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna;
- (k) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all property which has been certified as a pollution control facility as defined in KRS 224.01-300;
- (l) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390;
- (m) Twenty-five cents (\$0.25) upon each one hundred dollars (\$100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043;
- (n) Five cents (\$0.05) upon each one hundred dollars (\$100) of value of goods held for sale in the regular course of business, which includes:
 - 1. Machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement; ~~and~~
 - 2. **Motor vehicles:**
 - a. ***Held for sale in the inventory of a licensed motor vehicle dealer, including licensed motor vehicle auction dealers, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230; or***
 - b. ***That are in the possession of a licensed motor vehicle dealer, including licensed motor vehicle auction dealers, for sale, although ownership has not been transferred to the dealer;***
 - 3. Raw materials, which includes distilled spirits and distilled spirits inventory; ~~and~~
 - 4. In-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business;
- (o) Ten cents (\$0.10) per one hundred dollars (\$100) of assessed value on the operating property of railroads or railway companies that operate solely within the Commonwealth;
- (p) One and one-half cents (\$0.015) per one hundred dollars (\$100) of assessed value on aircraft not used in the business of transporting persons or property for compensation or hire;

- (q) One and one-half cents (\$0.015) per one hundred dollars (\$100) of assessed value on federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes; and
 - (r) Forty-five cents (\$0.45) upon each one hundred dollars (\$100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed, except as provided in KRS 132.030, 132.200, 136.300, and 136.320, providing a different tax rate for particular property.
- (2) Notwithstanding subsection (1)(a) of this section, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent (4%), excluding:
- (a) The assessment of new property as defined in KRS 132.010(8);
 - (b) The assessment from property which is subject to tax increment financing pursuant to KRS Chapter 65; and
 - (c) The assessment from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents (\$0.015) pursuant to subsection (1)(b) of this section. In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.
- (3) By July 1 each year, the department shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (2) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the department shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the department, or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the previous year have been determined to be acceptable by the department, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.
- (4) If the tax rate set by the department as provided in subsection (2) of this section produces more than a four percent (4%) increase in real property tax revenues, excluding:
- (a) The revenue resulting from new property as defined in KRS 132.010(8);
 - (b) The revenue from property which is subject to tax increment financing pursuant to KRS Chapter 65; and
 - (c) The revenue from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents (\$0.015) pursuant to subsection (1) of this section;

the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.

- (5) The provisions of subsection (2) of this section notwithstanding, the assessed value of unmined coal certified by the department after July 1, 1994, shall not be included with the assessed value of other real property in determining the state real property tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also be excluded from the provisions of subsection (2) of this section. The calculated rate shall, however, be applied to unmined coal property, and the state revenue shall be devoted to the program described in KRS 146.550 to 146.570, except that four hundred thousand dollars (\$400,000) of the state revenue shall be paid annually to the State Treasury and credited to the Department for Energy Development and Independence for the purpose of public education of coal-related issues.

➔Section 2. KRS 132.028 is amended to read as follows:

- (1) Subject to the provisions of KRS 132.027, a city or urban-county government may levy a rate on business inventories equal to or less than the prevailing rate of taxation on other tangible personal property in the respective city or urban-county government.
- (2) The *tangible personal property* tax shall not be levied upon:
 - (a) The inventories of licensed motor vehicle dealers, *including licensed motor vehicle auction dealers; or*

- (b) *Motor vehicles that are in the possession of a licensed motor vehicle dealer, including licensed motor vehicle auction dealers, for sale, although ownership has not been transferred to the dealer* ~~[- which shall be taxed exclusively under the provisions of KRS 134.800 to 134.830].~~

➔Section 3. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school, or other taxing district in which it has a taxable situs, except the class of property described in KRS 132.030 and the following classes of property, which shall be subject to taxation for state purposes only:

- (1) Farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operation;
- (2) Livestock, ratite birds, and domestic fowl;
- (3) Capital stock of savings and loan associations;
- (4) Machinery actually engaged in manufacturing, products in the course of manufacture, and raw material actually on hand at the plant for the purpose of manufacture. The printing, publication, and distribution of a newspaper or operating a job printing plant shall be deemed to be manufacturing;
- (5)
 - (a) Commercial radio, television, and telephonic equipment used to receive, capture, produce, edit, enhance, modify, process, store, convey, or transmit audio or video content or electronic signals which are broadcast over the air;
 - (b) Equipment directly used or associated with the equipment identified in paragraph (a) of this subsection, including radio and television towers used to transmit or facilitate the transmission of the signal broadcast, but excluding telephone and cellular communications towers; and
 - (c) Equipment used to gather or transmit weather information;
- (6) Unmanufactured agricultural products. They shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof, and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents (\$0.015) on each one hundred dollars (\$100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents (\$0.045) on each one hundred dollars (\$100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;
- (7) All privately owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;
- (8) Property which has been certified as a pollution control facility as defined in KRS 224.01-300;
- (9) Property which has been certified as an alcohol production facility as defined in KRS 247.910;
- (10) On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(9) in determining the amount of county appropriation to the office of the property valuation administrator;
- (11) Tangible personal property located in a foreign trade zone established pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board;
- (12) Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.460;
- (13) Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;
- (14) All motor vehicles;

- (a) Held for sale in the inventory of a licensed motor vehicle dealer, *including motor vehicle auction dealers*, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230;
 - (b) *That are in the possession of a licensed motor vehicle dealer, including licensed motor vehicle auction dealers, for sale, although ownership has not been transferred to the dealer;*~~†~~ and
 - (c) ~~{All motor vehicles }~~With a salvage title held by an insurance company;
- (15) Machinery or equipment owned by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes as defined in KRS 139.010;
- (16) New farm machinery and other equipment held in the retailer's inventory for sale under a floor plan financing arrangement by a retailer, as defined under KRS 365.800;
- (17) New boats and new marine equipment held for retail sale under a floor plan financing arrangement by a dealer registered under KRS 235.220;
- (18) Aircraft not used in the business of transporting persons or property for compensation or hire if an exemption is approved by the county, city, school, or other taxing district in which the aircraft has its taxable situs;
- (19) Federally documented vessels not used in the business of transporting persons or property for compensation or hire or for other commercial purposes, if an exemption is approved by the county, city, school, or other taxing district in which the federally documented vessel has its taxable situs;
- (20) Any nonferrous metal that conforms to the quality, shape, and weight specifications set by the New York Mercantile Exchange's special contract rules for metals, and which is located or stored in a commodity warehouse and held on warrant, or for which a written request has been made to a commodity warehouse to place it on warrant, according to the rules and regulations of a trading facility. In this subsection:
- (a) "Commodity warehouse" means a warehouse, shipping plant, depository, or other facility that has been designated or approved by a trading facility as a regular delivery point for a commodity on contracts of sale for future delivery; and
 - (b) "Trading facility" means a facility that is designated by or registered with the federal Commodity Futures Trading Commission under 7 U.S.C. secs. 1 et seq. "Trading facility" includes the Board of Trade of the City of Chicago, the Chicago Mercantile Exchange, and the New York Mercantile Exchange;
- (21) Qualifying voluntary environmental remediation property for a period of three (3) years following the Energy and Environment Cabinet's issuance of a No Further Action Letter or its equivalent, pursuant to the correction of the effect of all known releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum products located on the property consistent with a corrective action plan approved by the Energy and Environment Cabinet pursuant to KRS 224.01-400, 224.01-405, or 224.60-135, and provided the cleanup was not financed through a public grant program of the petroleum storage tank environmental assurance fund; **and**
- (22) Biotechnology products held in a warehouse for distribution by the manufacturer or by an affiliate of the manufacturer. For the purposes of this section:
- (a) "Biotechnology products" means those products that are applicable to the prevention, treatment, or cure of a disease or condition of human beings and that are produced using living organisms, materials derived from living organisms, or cellular, subcellular, or molecular components of living organisms. Biotechnology products does not include pharmaceutical products which are produced from chemical compounds;
 - (b) "Warehouse" includes any establishment that is designed to house or store biotechnology products, but does not include blood banks, plasma centers, or other similar establishments; and
 - (c) "Affiliate" means an individual, partnership, or corporation that directly or indirectly owns or controls, or is owned or controlled by, or is under common ownership or control with, another individual, partnership, or corporation.

➔Section 4. KRS 134.810 is amended to read as follows:

- (1) All state, county, city, urban-county government, school, and special taxing district ad valorem taxes shall be due and payable on or before the earlier of the last day of the month in which registration renewal is required by law for a motor vehicle renewed or the last day of the month in which a vehicle is transferred.
- (2) All state, county, city, urban-county government, school, and special taxing district ad valorem taxes due on motor vehicles shall become delinquent following the earlier of the end of the month in which registration renewal is required by law or the last day of the second calendar month following the month in which a vehicle was transferred.
- (3) Any taxes which are paid within thirty (30) days of becoming delinquent shall be subject to a penalty of three percent (3%) on the taxes due. However, this penalty shall be waived if the tax bill is paid within five (5) days of the tax bill being declared delinquent. Any taxes which are not paid within thirty (30) days of becoming delinquent shall be subject to a penalty of ten percent (10%) on the taxes due. In addition, interest at an annual rate of fifteen percent (15%) shall accrue on said taxes and penalty from the date of delinquency. A penalty or interest shall not accrue on a motor vehicle under dealer assignment pursuant to KRS 186A.220.
- (4) When a motor vehicle has been transferred before registration renewal or before taxes due have been paid, the owner pursuant to KRS 186.010(7)(a) and (c) on January 1 of any year shall be liable for the taxes on the motor vehicle, except as hereinafter provided.
- (5) If an owner obtains a certificate of registration for a motor vehicle valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration, all state, county, city, urban-county government, school, and special tax district ad valorem tax liabilities arising from the assessment date following initial registration shall be due and payable on or before the last day of the first birth month following the assessment date or date of transfer, whichever is earlier. Any taxes due under the provisions of this subsection and not paid as set forth above shall be considered delinquent and subject to the same interest and penalties found in subsection (3) of this section.
- (6) For purposes of the state ad valorem tax only, all motor vehicles:
 - (a) Held for sale by a licensed *motor vehicle* ~~[Kentucky]~~ dealer, ***including licensed motor vehicle auction dealers;***
 - (b) ***That are in the possession of a licensed motor vehicle dealer, including licensed motor vehicle auction dealers, for sale, although ownership has not been transferred to the dealer;*** and
 - (c) ~~[all motor vehicles]~~ With a salvage title held by an insurance company;

on January 1 of any year shall not be taxed as a motor vehicle pursuant to KRS 132.485 but shall be subject to ad valorem tax as goods held for sale in the regular course of business under the provisions of KRS 132.020(1)(n)~~(m)~~ and 132.220.
- (7) Any provision to the contrary notwithstanding, when any ad valorem tax on a motor vehicle becomes delinquent, the state and each county, city, urban-county government, or other taxing district shall have a lien on all motor vehicles owned or acquired by the person who owned the motor vehicle at the time the tax liability arose. A lien for delinquent ad valorem taxes shall not attach to any motor vehicle transferred while the taxes are due on that vehicle. For the purpose of delinquent ad valorem taxes on leased vehicles only, a lien on a leased vehicle shall not be attached to another vehicle owned by the lessor.
- (8) The lien required by subsection (7) of this section shall be filed and released by the automatic entry of appropriate information in the AVIS database. For the filing and release of each lien or set of liens arising from motor vehicle ad valorem property tax delinquency, a fee of two dollars (\$2) pursuant to this section shall be added to the delinquent tax account. The fee shall be collected and retained by the county clerk who collects the delinquent tax.
- (9) The implementation of the automated lien system provided in this section shall not affect the manner in which commercial liens are recorded or released.

Signed by Governor March 22, 2013.

(HB 320)

AN ACT relating to consolidated local governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 67C.117 is amended to read as follows:

- (1) (a) It shall be the policy of the consolidated local government to ensure that opportunities generated directly or indirectly by the consolidated local government are equally available to all citizens without regard to race, color, religion, national origin, marital status, physical handicap, sex, or age.
- (b) It shall also be the policy of the consolidated local government to include the minority community in all aspects of governance in the consolidated local government. Minority citizens and business shall be represented in all actions of the consolidated government, including but not limited to government employment, appointments to boards or commissions, contracting, and purchasing.
- (2) The percentage of minority citizens who shall be employed by the consolidated local government ***shall be no less than the percentage of minority citizens available in the consolidated local government's Metropolitan Statistical Area defined by the United States Office of Management and Budget as used by the United Census Bureau survey. The percentage of minority citizens who shall be***~~to~~ appointed to each of its boards and commissions shall be no less than the percentage of minority citizens in the community, or the percentage of minority representatives on the consolidated local government's legislative body, whichever is greater.
- (3) The consolidated local government shall adopt ordinances and develop policies to achieve the mandate set forth in this section.

➔Section 2. KRS 67C.119 is amended to read as follows:

- (1) The consolidated local government shall have an affirmative action plan that complies with all current federal guidelines and requirements relevant to local governments.
- (2) The mayor shall prepare and implement an affirmative action plan.
- (3) There shall be established under the direction of the mayor an office that shall be called the "Affirmative Action Office."
- (4) The Affirmative Action Office shall aid the mayor in preparing the plan, and shall be responsible for the day-to-day operation and implementation of the affirmative action plan.
- (5) An affirmative action plan, in addition to following all federal requirements, shall include good faith efforts to:
 - (a) Determine the extent to which minorities and women are underutilized in major categories;
 - (b) Identify and eliminate the specific causes of the underutilization;
 - (c) Identify and eliminate all employment practices that have an adverse impact on minorities, women, and others protected by applicable law and the relationship of which to job performance has not been clearly established;
 - (d) Rely exclusively on practices that are based on merits and other valid job related criteria;
 - (e) Develop substantial applicant pools of validly qualified minorities and women, special recruitment efforts, and other measures to insure that sufficient numbers of these groups are included to help reduce their underutilization;
 - (f) Develop, through special recruitment efforts and other measures, applicant pools in which handicapped persons are represented equitably;
 - (g) Project goals and timetables to include estimates of the representation of minorities and women likely to result from the operation of this affirmative action plan; and
 - (h) Establish organizational structures and monitoring systems that will ensure effective operation of its goals, and means for modification of the plan as needed.
- (6) All contracts, leases, or other agreements for materials, supplies, equipment, or contractual services other than professional that, in the aggregate, exceed ***the amount for small purchases in KRS 45A.385***~~ten thousand dollars (\$10,000)~~ in any ~~fiscal calendar~~ year shall be awarded in compliance with KRS 424.260 or with KRS 45A.343 to 45A.460, if applicable.

- (7) Notwithstanding anything to the contrary in this section, the provisions of this section shall apply to every person, firm, corporation, and association that has been awarded contracts, leases, or other agreements as provided by KRS 424.260 or with KRS 45A.343 to 45A.460, if applicable, that, in the aggregate, exceed **the amount for small purchases in KRS 45A.385**~~ten thousand dollars (\$10,000)~~ in any ~~fiscal~~~~calendar~~ year.
- (8) Employment opportunities generated directly or indirectly by the government of the consolidated local government shall be equally available to all citizens without regard to race, color, religion, national origin, marital status, physical handicap, sex, or age. In order to ensure that employment opportunities generated directly or indirectly by the consolidated local government are equally available, contractors and vendors shall be approved as provided by this section prior to the awarding of any contract, lease, or other agreement that requires an expenditure in excess of **the amount for small purchases in KRS 45A.385**~~ten thousand dollars (\$10,000)~~ with the consolidated local government.
- (9) No person, firm, corporation, or association shall be awarded a contract, lease, or other agreement that requires an expenditure in excess of **the amount for small purchases in KRS 45A.385**~~ten thousand dollars (\$10,000)~~ until and unless that person, firm, corporation, or association has been prequalified as determined by procedures and requirements enacted by ordinance by the consolidated local government.
- (10) No officer, employee, or agent of the consolidated local government shall accept a contract, lease, or other agreement that requires an expenditure in excess of **the amount for small purchases in KRS 45A.385**~~ten thousand dollars (\$10,000)~~ with the consolidated local government until and unless that person, firm, corporation, or association has been prequalified as determined by procedures and requirements enacted by ordinance by the consolidated local government.
- (11) All persons, firms, corporations, or associations seeking to bid on contracts, leases, or other agreements that require an expenditure exceeding **the amount for small purchases in KRS 45A.385**~~ten thousand dollars (\$10,000)~~ with the consolidated local government shall submit a request for prequalification as an eligible contractor, pursuant to the procedures and requirements enacted by ordinance by the consolidated local government.
- (12) The consolidated local government shall make available a list of all bidders who have been prequalified and shall distribute the list to the appropriate purchasing officers, employees, or agents of the consolidated local government.
- (13) Any person, firm, corporation, or association that submits an otherwise qualified bid for a contract, lease, or other agreement pursuant to the provisions of KRS 424.260, but that has not prequalified pursuant to this section, may be approved by the consolidated local government as provided by this section. Any person, firm, or corporation that is approved by the consolidated local government shall thereafter be qualified and considered eligible for award for a contract, lease, or other agreement.
- (14) The consolidated local government shall prequalify persons, firms, corporations, and associations seeking a contract, lease, or other agreement that requires an expenditure exceeding **the amount for small purchases in KRS 45A.385**~~ten thousand dollars (\$10,000)~~ with the consolidated local government if, on an analysis of the workforce of that entity, the consolidated local government determines that:
 - (a) The entity is not deficient in the utilization of minority groups or women;
 - (b) The entity has an acceptable, bona fide affirmative action plan;
 - (c) The entity is a small business that employs ten (10) or fewer individuals;
 - (d) The entity has a federally approved affirmative action program; or
 - (e) The consolidated local government has made a finding based on other reasonable criteria, and after consideration of the provisions of 41 C.F.R. 60-2, determines the entity does not require an affirmative action plan.
- (15) An acceptable affirmative action plan for an entity seeking a contract, lease, or other agreement with a consolidated local government shall include:
 - (a) An analysis of the areas of the entity's workforce within which it is deficient in the utilization of minority groups and women; and
 - (b) Timetables to which the entity's good faith efforts shall be directed to correct the deficiencies and to achieve prompt and full utilization of minorities and women at all levels and in all segments of its workforce where deficiencies exist.

- (16) A bona fide affirmative action plan for an entity seeking a contract, lease, or other agreement with a consolidated local government shall include a set of specific and result-oriented procedures, goals, and timetables to which an entity commits itself to apply every good faith effort in order to achieve equal employment opportunity. Procedures without effort to make them work are meaningless and effort undirected by specific and meaningful procedures is inadequate.
- (17) In reviewing an affirmative action plan for an entity seeking a contract, lease, or other agreement with a consolidated local government, the consolidated local government shall be guided by the relevant provisions of 41 C.F.R. 60-2 which outlines the requirements of affirmative action plans for federal contractors and vendors.
- (18) The consolidated local government shall use its best efforts, directly and through contracting agencies, other interested federal, state, and local agencies, contractors, and all other available instrumentalities to cause any labor union engaged in work pursuant to contracts, leases, and agreements that are the subject matter of this section or any agency referring workers or providing or supervising apprenticeship or training for or in the course of this work to cooperate in the implementation of the purposes of this section.
- (19) The consolidated local government on its own motion or on motion of any interested party shall cause hearings as it deems necessary for compliance or enforcement of this section.
- (20) The consolidated local government shall hold a hearing prior to imposing or recommending the imposition of penalties and sanctions for violation of this section. No penalty that would prohibit any contractor from obtaining future contracts under this section shall be made without affording the contractor an opportunity for a hearing.
- (21) Notice of any final decision or determination of the consolidated local government that affects the running of time for taking an appeal shall be mailed to all parties in the matter, including the proposed contractor, lessor or other party, and the affected local government offices.
- (22) The consolidated local government shall establish an affirmative action appeals board for purposes of hearing appeals from any final decision relating to matters pertaining to this section. The board shall be composed of the county attorney, or his or her designee, the council president of the consolidated local government, or his or her designee, and a representative of the financial department of the consolidated local government, or his or her designee.
- (23) Any appeal from a decision of the consolidated local government shall be hand-delivered or mailed by certified mail to the affirmative action appeals board not later than thirty (30) days from the date of the local government's decision. The appeal shall set forth the grounds for the appeal. The appeals board shall notify all parties in writing of the time and place of a hearing. The hearing committee may issue subpoenas for any witnesses requested by either of the parties or in the appeals board's opinion necessary to the proper disposition of the matter to be heard. All parties shall be allowed legal representation, witnesses may be cross-examined, and the proceeding shall be recorded. The local government shall transmit, within ten (10) days after receipt of notice of appeal, all the original papers in action to the appeals board.
- (24) The appeals board shall have the power to require the contractor to furnish all necessary records and give testimony as to enable the board to render a fair and competent decision. The duty of the board shall be to review all records, hear all testimonies of witnesses, and determine whether the decision of the local government was correct. The decision of the appeals board shall be final. The decision of the appeals board shall be transmitted in writing to the appropriate offices of the local government for implementation and shall set forth specifically its findings of fact and conclusions relative to its determination. The administration of sanctions and penalties in accordance with that determination shall be the duty of the appropriate department or contracting agency of the consolidated local government.
- (25) (a) On request of the adversely affected party the appeals board may, on terms as are just, relieve a party from its final order of determination on the following grounds:
 1. Mistake, inadvertence, surprise, or excusable neglect;
 2. Newly discovered evidence that by due diligence could not have been discovered in time for the hearing;
 3. Perjury or falsified evidence; or
 4. Fraud affecting the proceedings other than perjury or falsified evidence.

- (b) The request shall be made within thirty (30) days after notification of the appeals board's final determination. A request under this subsection does not affect the finality of the order or determination or suspend its operation.
- (26) In accordance with the enforcement provisions of this section, the consolidated local government may cancel, terminate, suspend, or cause to be canceled, terminated, or suspended, any contract, lease, or agreement that is the subject matter of this section for failure of the contractor or vendor to comply. Contracts, leases, and agreements may be canceled, terminated, or suspended absolutely or continuance of contracts, leases, and agreements may be conditioned on a program for future compliance as approved by the consolidated local government.
- (27) Any contracting agency shall refrain from entering into further contracts or extensions or other modifications of existing contracts, with any noncomplying contractor, until the contractor has established and will carry out personnel and employment policies in compliance with the provisions of this section.
- (28) Whenever the consolidated local government makes a determination regarding noncompliance by a contractor pursuant to this section, it shall promptly notify the appropriate contracting agency and other affected local government agencies and offices of the action recommended. The contracting agency shall take the action recommended and shall report the results of that action to the consolidated local government.
- (29) If the appeals board shall so direct, contracting agencies shall not enter into contracts with any bidder or prospective contractor unless the bidder or prospective contractor has satisfactorily complied with the provisions of this order or submits a program for compliance acceptable to the consolidated local government.

➔Section 3. KRS 67C.323 is amended to read as follows:

In all cases provided for in KRS 67C.321, the action of the chief shall be final except in the following cases:

- (1) Every action in the nature of a dismissal, suspension, or demotion of a nonprobationary officer made by the chief shall be subject to review by the board at the request of any officer affected by KRS 67C.301 to 67C.327. An appeal to the board of a dismissal, demotion, or forty (40) hour or more suspension of a nonprobationary officer shall be heard by the full board. The board shall give notice and hold a public hearing. After the hearing, the board shall retire in executive session to discuss the evidence introduced at the hearing and to make its determination and conclusion. While in executive session, the board shall not receive any further evidence or communication from any source prior to reaching its determination and conclusion. The board, while in executive session, may request and receive legal advice from board counsel on specific legal issues which may arise during deliberations. If a majority of the members of the board are of the opinion that the action of the chief is unjustified or unsupported by proper evidence, the order of the chief may be set aside and revoked by the board, and the board may impose the penalty or punishment it deems necessary and appropriate, if any; provided however, the board shall not impose a penalty or punishment in excess of the action of the chief. No officer shall be removed or dismissed except as provided for in this section.
- (2) An appeal to the board of a suspension of a nonprobationary officer of less than forty (40) hours may be heard by the full board or any hearing officer secured by the board. If the appeal is heard by a hearing officer, all rules established by the board relating to appeals of disciplinary actions shall be applicable. After the hearing, the hearing officer shall complete and submit to the board, no later than thirty (30) days after the hearing, a written recommended order which shall include his findings of fact, conclusions of law, and recommended disposition of the appeal, which may include recommended penalties. The recommended order shall also include a statement advising the appealing officer and chief fully of their exception and appeal rights. A copy of the hearing officer's recommended order shall be sent to the appealing officer and chief. Each party shall have fifteen (15) days from the date the recommended order is mailed within which to file exceptions to the recommendations with the board. The board shall consider the record including the recommended order in any exceptions duly filed to a recommended order, and accept and adopt or reject or modify, in whole or in part, the recommended order, or remand the appeal of the matter, in whole or in part, to the hearing officer for further proceedings as appropriate. The final order of the board shall be in writing. If the final order differs from the recommended order, it shall include separate statements of findings of fact and conclusions of law. The board shall render a final order in an administrative hearing within thirty (30) days after receipt of the hearing officer's recommended order.
- (3) (a) Every action of a dismissal, suspension, or demotion made by the board shall be final, except that any person aggrieved may, within thirty (30) days after the action, appeal to the Circuit Court of the county in which the board meets. The board shall be named respondent as the consolidated local government police force merit board, and service shall be had on the chairman of the board. *Notice of the appeal*

shall be given to the chief or the officer if not already a party to the appeal as real parties in interest. The appeal taken to the Circuit Court shall be docketed by the clerk as a civil action with appropriate judicial review of an administrative action or decision.

- (b) The judgment of the Circuit Court shall be subject to appeal to the Court of Appeals. The procedure as to the appeal to the Court of Appeals shall be the same as in any civil action.

➔Section 4. KRS 100.137 is amended to read as follows:

- (1) Except in a consolidated local government, counties with a population of 300,000 or more inhabitants shall be a planning unit and shall have a planning commission which commission shall be composed of three (3) members, who are nonresidents of the largest city of the county, appointed by the county judge/executive of such county; three (3) members who are residents of the largest city of the county appointed by the mayor of that city; and the mayor of the largest city, or his designee; the county judge/executive, or his designee; the director of works of the largest city in the county; and the county road engineer. The county judge/executive and the mayor together shall ensure that three (3) of the six (6) appointees are citizens who have no direct financial interest in the land development and construction industry. If the commission appoints a citizen member to fill a vacancy, the commission shall ensure that the balance is maintained. All ten (10) members of the planning commission shall be required to disclose any personal or family commercial interest relevant to land use, new development supply, or new development construction. The disclosure shall be a written, signed statement of the general nature of the member's interest. The disclosure shall be filed with the commission's records under KRS 100.167 and shall be available for public inspection during regular business hours. A member shall not vote on an issue in which the member or member's family has an interest. The willful failure of a member to disclose an interest, or a member's voting on an issue in which the member or member's family has a known interest, shall subject the member to removal proceedings under KRS 100.157.
- (2) A county with a consolidated local government created pursuant to KRS Chapter 67C shall be a planning unit and shall have a planning commission which shall include eight (8) members who are residents of the planning unit, approved by the mayor of the consolidated local government pursuant to the provisions of KRS 67C.139. The membership of the planning commission shall also include the mayor of the consolidated local government, or his or her designee, and the director of public works of the consolidated local government, *or his or her designee*, or the county engineer as determined by the mayor. ***If the director of public works designates a designee, the designee shall either be a civil or highway engineer licensed under KRS Chapter 322, and shall have at least three (3) years' practical road building, road design, or transportation planning experience.*** The mayor shall ensure that four (4) of the eight (8) appointees are citizens who have no direct financial interest in the land development and construction industry. If the commission appoints a citizen member to fill a vacancy, the commission shall ensure that the balance is maintained. All ten (10) members of the planning commission shall be required to disclose any personal or family commercial interest relevant to land use, new development supply, or new development construction. The disclosure shall be a written, signed statement of the general nature of the member's interest. The disclosure shall be filed with the commission's records pursuant to KRS 100.167 and shall be available for public inspection during regular business hours. A member shall not vote on an issue in which the member or member's family has an interest. The willful failure of a member to disclose an interest, or a member's voting on an issue in which the member or member's family has a known interest, shall subject the member to removal proceedings pursuant to KRS 100.157.
- (3) In counties containing a city of the first class or a consolidated local government, all legislation implementing or amending the plan or amended plan which affects cities of the first through fourth classes shall be enacted by such cities and all other legislation implementing the plan or amended plan shall be enacted by the fiscal court or, in the case of a consolidated local government, by the consolidated local government.
- (4) In all other counties the establishment of a planning unit is optional, but any planning unit established in other counties shall comply with the remaining provisions of this chapter.

➔Section 5. KRS 100.214 is amended to read as follows:

When in any planning unit containing any portion of a county containing a city of the first class or a consolidated local government a hearing is scheduled on a proposal by a property owner to amend any zoning map, the following notice shall be given in addition to any other notice required by statute, local regulation, or ordinance to be given:

- (1) Notice of the hearing shall be posted conspicuously on the property the classification of which is proposed to be changed ***at least fourteen (14)***~~*thirty (30)*~~ days immediately prior to the hearing. Posting shall be as follows:

- (a) The sign shall state "zoning change" and the proposed classification change in letters three (3) inches in height. The time, place, and date of hearing shall be in letters at least one (1) inch in height; and
 - (b) The sign shall be constructed of durable material and shall state the telephone number of the appropriate zoning commission;
- (2) Notice of the hearing shall be given at least **fourteen (14)**~~thirty (30)~~ days in advance of the hearing by first-class mail, with certification by the commission secretary or other officer of the planning commission that the notice was mailed, to the mayor and city clerk of any city of the fifth or sixth class so affected, to an owner of every parcel of property adjoining at any point the property the classification of which is proposed to be changed, to an owner of every parcel of property directly across the street from said property, and to an owner of every parcel of property which adjoins at any point the adjoining property or the property directly across the street from said property; provided, however, that no first-class mail notice, required by this subsection, shall be required to be given to any property owner whose property is more than five hundred (500) feet from the property which is proposed to be changed. It shall be the duty of the person or persons proposing the map amendment to furnish to the planning commission the names and addresses of the owners of all property as described in this subsection. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairman of the owner group which administers property commonly owned by the condominium or cooperative owners. A joint notice may be mailed to two (2) or more co-owners of an adjoining property who are listed in the property valuation administrator's records as having the same address;
- (3) If the hearing has been scheduled for a time during normal working hours, and if, within **ten (10)**~~fifteen (15)~~ days of the scheduled date of the hearing the planning commission shall receive a petition from two hundred (200) property owners living within the planning unit requesting that the hearing be rescheduled for a time after normal working hours, then the planning commission shall reschedule the hearing for a time after normal working hours on a date no earlier than the date of the original hearing. The planning commission shall then publish notice of the new hearing time and date according to the provisions of KRS 100.211, except that notice shall occur at least seven (7) days prior to the public hearing. The sign required by subsection (1) of this section shall be changed to reflect the new hearing time and date at least seven (7) days prior to the public hearing. The persons who receive mail notice according to the provisions of subsection (2) of this section shall again be notified in the same manner of the new hearing time and date at least seven (7) days prior to the hearing. The hearing time shall not be changed more than once by the procedures of this section except in the event of intervening emergency which requires the cancellation of a hearing; and
- (4) Notice by mail shall include a list of the names and addresses of each person so notified, and a description of the procedure by which those notified can petition for a change in the hearing time.

Signed by Governor March 22, 2013.

CHAPTER 96

(HB 338)

AN ACT relating to city-operated natural gas distribution systems.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 96 IS CREATED TO READ AS FOLLOWS:

- (1) ***Subject to the limitations of subsection (4) of this section, KRS 96.045, and KRS 96.538, any city that owns and operates a municipal system for the acquisition, distribution, or transmission of natural gas may extend the system into and furnish and sell natural gas to any person or entity within the boundaries of the city or within any territory outside of the city's boundaries. In exercising the authority provided by this subsection, the city may install the necessary apparatus to provide natural gas distribution or transmission service and may also condemn or otherwise acquire rights-of-way as private utilities may do. The provisions of this subsection shall apply to all cities of this Commonwealth transporting or distributing natural gas as well as any board, commission, or agency thereof.***

- (2) *A city, other than a city of the first class or a consolidated local government, may acquire the entire plant of an existing natural gas distribution system only under the same process and subject to the same limitations established by KRS 96.580 to 96.600.*
- (3) *No property owned or operated by an existing natural gas distribution system located within the Commonwealth may be condemned by a city from another state.*
- (4) *A natural gas utility, which, for purposes of this subsection, means a public, private or municipally owned gas utility distributing or transporting natural gas to customers within this Commonwealth, shall not:*
 - (a) *Extend its system for the purposes of furnishing or selling natural gas to any person or entity that is currently being served by another natural gas utility; or*
 - (b) *Extend its system to furnish or sell natural gas to any person or entity when there is another natural gas utility in closer proximity to the person or entity to be served, unless the natural gas utility in closer proximity has declined to provide service.*
- (5) *The provisions of subsection (4) of this section shall only apply to extension of service issues between a municipally owned natural gas utility servicing customers located outside its municipal boundaries and a private or investor-owned natural gas utility. The term "municipally owned" shall include systems distributing or transporting natural gas that are owned by a city from another state.*

Signed by Governor March 22, 2013.

CHAPTER 97

(HB 361)

AN ACT relating to the taxation of tobacco products.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 138.130 is amended to read as follows:

As used in KRS 138.130 to 138.205, unless the context requires otherwise:

- (1) "Department" means the Department of Revenue;~~[-]~~
- (2) "Manufacturer" means any person who manufactures or produces cigarettes~~[-, snuff]~~, or~~[- other]~~ tobacco products within or without this state;~~[-]~~
- (3) "Retailer" means any person who sells to a consumer or to any person for any purpose other than resale;~~[-]~~
- (4) "Sale at retail" means a sale to any person for any other purpose other than resale;~~[-]~~
- (5) "Cigarettes" means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco. "Cigarettes" shall not mean reference cigarettes;~~[-]~~
- (6) "Reference cigarettes" means cigarettes made by a manufacturer specifically for a state public university to be held by the university until sale or transfer to a laboratory, hospital, medical center, institute, college or university, manufacturer, or other institution. A reference cigarette package shall carry a marking labeling the contents as research cigarettes to be used only for tobacco-health research and experimental purposes, which shall not be offered for sale, sold, or distributed to consumers;~~[-]~~
- (7) "Sale" or "sell" means any transfer for a consideration, exchange, barter, gift, offer for sale, advertising for sale, soliciting an order for cigarettes ***or***~~[-, other]~~ tobacco products~~[-, or snuff]~~, and distribution in any manner or by any means whatsoever;~~[-]~~
- (8) "Tax evidence" means any stamps, metered impressions, or other indicia prescribed by the department by ***administrative*** regulation as a means of denoting the payment of tax;~~[-]~~
- (9) "Person" means any individual, firm, copartnership, joint venture, association, municipal or private corporation whether organized for profit or not, the Commonwealth of Kentucky or any of its political

subdivisions, an estate, trust, or any other group or combination acting as a unit, and the plural as well as the singular;{ }

- (10) "Resident wholesaler" means any person who purchases at least seventy-five percent (75%) of all cigarettes~~, other tobacco products, or snuff~~ purchased by the wholesaler directly from the manufacturer on which the tax provided for in *subsections (1), (2), and (3) of Section 2 of this Act*~~{KRS 138.130 to 138.205}~~ is unpaid, and who maintains an established place of business in this state where the wholesaler attaches cigarette tax evidence, or receives untaxed cigarettes;~~, other tobacco products, or snuff.~~
- (11) "Nonresident wholesaler" means any person who purchases cigarettes~~, other tobacco products, or snuff~~ directly from the manufacturer and maintains a permanent location or locations outside this state where Kentucky cigarette tax evidence is attached or from where Kentucky cigarette tax is reported and paid;~~{ }~~
- (12) "Sub-jobber" means any person who purchases cigarettes~~, other tobacco products, or snuff~~ from a *resident wholesaler, nonresident wholesaler, or unclassified acquirer* licensed under KRS 138.195 on which the tax imposed by *subsections (1), (2), and (3) of Section 2 of this Act*~~{KRS 138.140}~~ has been paid and makes them available to retailers for resale. No person shall ~~be deemed to~~ make cigarettes~~, other tobacco products, or snuff~~ available to retailers for resale unless the person certifies and establishes to the satisfaction of the department that firm arrangements have been made to regularly supply at least five (5) retail locations with Kentucky tax-paid cigarettes~~, other tobacco products, or snuff~~ for resale in the regular course of business;~~{ }~~
- (13) "Vending machine operator" means any person who operates one (1) or more cigarette~~, other tobacco products, or snuff~~ vending machines;~~{ }~~
- (14) "Transporter" means any person transporting untax-paid cigarettes~~, other tobacco products, or snuff~~ obtained from any source to any destination within this state, other than cigarettes~~, other tobacco products, or snuff~~ transported by the manufacturer thereof;~~{ }~~
- (15) "Unclassified acquirer" means any person in this state who acquires cigarettes~~, other tobacco products, or snuff~~ from any source on which the tax imposed by *subsections (1), (2), and (3) of Section 2 of this Act*~~{KRS 138.140}~~ has not been paid, and who is not a person otherwise required to be licensed under the provisions of KRS 138.195;~~{ }~~
- (16) *"Tobacco products" means any smokeless tobacco products, smoking tobacco, chewing tobacco, and any kind or form of tobacco prepared in a manner suitable for chewing or smoking, or both, or any kind or form of tobacco that is suitable to be placed in an individual's oral cavity, except:*
- (a) *Cigarettes; and*
 - (b) *Reference cigarettes;* ~~"Other tobacco products" means:~~
 - (a) ~~Cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco;~~
 - (b) ~~Cavendish, plug and twist tobacco, fine cut, and other chewing tobacco; or~~
 - (c) ~~Shorts, dry snuff, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco prepared in a manner to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing or smoking. "Other tobacco products" does not include cigarettes as defined in subsection (5) of this section, reference cigarettes, or moist snuff taxed under the provisions of KRS 138.140(5).]~~
- (17) *"Distributor" means any person within this state in possession of tobacco products for resale within this state on which the tax imposed under subsection (4) of Section 2 of this Act has not been paid;* ~~"Wholesale sale" means a sale made for the purpose of resale in the regular course of business.]~~
- (18) *"Retail distributor" means a retailer who has obtained a retail distributor's license under subsection (7)(b) of Section 3 of this Act;*
- (19) *"Chewing tobacco" means any leaf tobacco that is not intended to be smoked and includes loose leaf chewing tobacco, plug chewing tobacco, and twist chewing tobacco, but "chewing tobacco" does not include snuff;*
- (20) *"Single unit" means a consumer-sized container, pouch, or package:*
- (a) *Containing less than four (4) ounces of chewing tobacco by net weight;*
 - (b) *Produced by the manufacturer to be sold to consumers as a single unit and not produced to be divided or sold separately; and*

- (c) *Containing one (1) individual container, pouch, or package;*
- (21) *"Half-pound unit" means a consumer-sized container, pouch, or package:*
 - (a) *Containing at least four (4) ounces but not more than eight (8) ounces of chewing tobacco by net weight;*
 - (b) *Produced by the manufacturer to be sold to consumers as a half-pound unit and not produced to be divided or sold separately; and*
 - (c) *Containing one (1) individual container, pouch, or package;*
- (22) *"Pound unit" means a consumer-sized container, pouch, or package:*
 - (a) *Containing more than eight (8) ounces but not more than sixteen (16) ounces of chewing tobacco by net weight;*
 - (b) *Produced by the manufacturer to be sold to consumers as a pound unit and not produced to be divided or sold separately; and*
 - (c) *Containing one (1) individual container, pouch, or package; and*
- (23) (a) *"Snuff" means tobacco that:*
 - 1. *Is finely cut, ground, or powdered; and*
 - 2. *Is not for smoking.*
- (b) *"Snuff" includes snus~~["Cigarette paper" means paper or a similar material suitable for use by consumers to wrap or roll tobacco into the form of a cigarette].~~*

➔Section 2. KRS 138.140 is amended to read as follows:

- (1) A tax shall be paid on the sale of cigarettes within the state at a proportionate rate of three cents (\$0.03) on each twenty (20) cigarettes.
- (2) Effective April 1, 2009, a surtax shall be paid in addition to the tax levied in subsection (1) of this section at a proportionate rate of fifty-six cents (\$0.56) on each twenty (20) cigarettes. This tax shall be paid only once, at the same time the tax imposed by subsection (1) of this section is paid.
- (3) Effective June 1, 2005, a surtax shall be paid in addition to the tax levied in subsection (1) of this section and in addition to the surtax levied by subsection (2) of this section, at a proportionate rate of one cent (\$0.01) on each twenty (20) cigarettes. This tax shall be paid at the same time the tax imposed by subsection (1) of this section and the surtax imposed by subsection (2) of this section are paid. The revenues from this surtax shall be deposited in the cancer research institutions matching fund created in KRS 164.043.
- (4) (a) *Effective August 1, 2013, an excise tax is hereby imposed upon every distributor for the privilege of selling tobacco products in this state at the following rates:*
 - 1. *Upon snuff at the rate of nineteen cents (\$0.19) per each one and one-half (1-1/2) ounces or portion thereof by net weight sold;*
 - 2. *Upon chewing tobacco at the rate of:*
 - a. *Nineteen cents (\$0.19) per each single unit sold;*
 - b. *Forty cents (\$0.40) per each half-pound unit sold; or*
 - c. *Sixty-five cents (\$0.65) per each pound unit sold.*

If the container, pouch, or package on which the tax is levied contains more than sixteen (16) ounces by net weight, the rate that shall be applied to the unit shall equal the sum of sixty-five cents (\$0.65) plus nineteen cents (\$0.19) for each increment of four (4) ounces or portion thereof exceeding sixteen (16) ounces sold; and

 - 3. *Upon tobacco products sold, at the rate of fifteen percent (15%) of the actual price for which the distributor sells tobacco products, except snuff and chewing tobacco, within the Commonwealth.*
- (b) *The net weight posted by the manufacturer on the container, pouch, or package or on the manufacturer's invoice shall be used to calculate the tax due on snuff or chewing tobacco.*

- (c) 1. *A retailer located in this state shall not purchase tobacco products for resale to consumers from any person within or outside this state unless that person is a distributor licensed under subsection (7)(a) of Section 3 of this Act or the retailer applies for and is granted a retail distributor's license under subsection (7)(b) of Section 3 of this Act for the privilege of purchasing untaxed tobacco products and remitting the tax as provided in this paragraph.*
2. *A licensed retail distributor of tobacco products shall be subject to the excise tax as follows:*
- a. *On purchases of untaxed snuff, at the same rate levied by paragraph (a)1. of this subsection;*
 - b. *On purchases of untaxed chewing tobacco, at the same rates levied by paragraph (a)2. of this subsection; and*
 - c. *On purchases of untaxed tobacco products, except snuff and chewing tobacco, fifteen percent (15%) of the total purchase price as invoiced by the retail distributor's supplier.*
- (d) 1. *The licensed distributor that first possesses tobacco products for sale to a retailer in this state or for sale to a person who is not licensed under subsection (7) of Section 3 of this Act shall be the distributor liable for the tax imposed by this subsection except as provided in subparagraph 2. of this paragraph.*
2. *A distributor licensed under subsection (7)(a) of Section 3 of this Act may sell tobacco products to another distributor licensed under subsection (7)(a) of Section 3 of this Act without payment of the excise tax. In such case, the purchasing licensed distributor shall be the distributor liable for the tax.*
3. *A licensed distributor or licensed retail distributor shall:*
- a. *Identify and display the distributor's or retail distributor's license number on the invoice to the retailer; and*
 - b. *Identify and display the excise tax separately on the invoice to the retailer. If the excise tax is included as part of the product's sales price, the licensed distributor or licensed retail distributor shall list the total excise tax in summary form by tax type with invoice totals.*
4. *It shall be presumed that the excise tax has not been paid if the licensed distributor or licensed retail distributor does not comply with subparagraph 3. of this paragraph.*
- (e) *No tax shall be imposed on tobacco products under this subsection that are not within the taxing power of this state under the Commerce Clause of the United States Constitution.*^{Effective April 1, 2009, an excise tax shall be imposed upon all wholesalers of other tobacco products at the rate of fifteen percent (15%) of the gross receipts of any wholesaler derived from wholesale sales made within the Commonwealth.}
- ~~(5) Effective April 1, 2009, a tax shall be imposed upon all wholesalers of snuff at a rate of nineteen cents (\$0.19) per unit. As used in this section, "unit" means a hard container not capable of containing more than one and one half (1 1/2) ounce. In determining the quantity subject to the tax under this subsection, if a package on which the tax is levied contains more than an individual unit, the taxable quantity shall be calculated by multiplying the total number of individual units by the rate set in this subsection.~~
- ~~(6) (a) Effective June 1, 2006, every person licensed under KRS 138.195 to affix tax evidence, every wholesaler required to pay the tax imposed by subsection (4) of this section, and every other person selling cigarette paper at wholesale in this state shall pay an excise tax on the sale of cigarette paper.~~
- ~~(b) The tax shall be in the amount of twenty five cents (\$0.25) per package of thirty two (32) sheets. For packages of greater or less than thirty two (32) sheets, the tax shall be calculated at seventy eight ten thousandths of one cent (\$0.0078) per sheet.~~
- ~~(c) The tax shall be remitted to the Department of Revenue at the same time and in the same manner as the tax imposed in subsection (4) of this section.~~
- ~~(5)(7) The taxes imposed by subsections (1) to (4)(6) of this section shall be paid only once, regardless of the number of times the cigarettes, or other tobacco products [product, snuff, or cigarette papers] may be sold.~~

~~(6)(8)~~ The department may prescribe forms and promulgate administrative regulations to execute and administer the provisions of this section.

~~(7)(9)~~ The General Assembly recognizes that increasing taxes on tobacco products should reduce consumption, and therefore result in healthier lifestyles for Kentuckians. The relative taxes on tobacco products proposed in this section reflect the growing data from scientific studies suggesting that although smokeless tobacco poses some risks, those health risks are significantly less than the risks posed by other forms of tobacco products. Moreover, the General Assembly acknowledges that some in the public health community recognize that tobacco harm reduction should be a complementary public health strategy regarding tobacco products. Taxing tobacco products according to relative risk is a rational tax policy and may well serve the public health goal of reducing smoking-related mortality and morbidity and lowering health care costs associated with tobacco-related disease.

➔Section 3. KRS 138.195 is amended to read as follows:

- (1) (a) No person other than a manufacturer shall acquire cigarettes in this state on which the Kentucky cigarette tax has not been paid, nor act as a resident wholesaler, nonresident wholesaler, vending machine operator, sub-jobber, transporter or unclassified acquirer of such cigarettes without first obtaining a license from the department as set out in this section.
- (b) *No person shall act as a distributor of tobacco products without first obtaining a license from the department as set out in this section.*
- (2) Each resident wholesaler shall secure a separate license for each place of business at which cigarette tax evidence is affixed or at which cigarettes on which the Kentucky cigarette tax has not been paid are received. Each nonresident wholesaler shall secure a separate license for each place of business at which evidence of Kentucky cigarette tax is affixed or from where Kentucky cigarette tax is reported and paid. Such a license or licenses shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars (\$500) for each such year or portion thereof for which such license is secured.
- (3) Each sub-jobber shall secure a separate license for each place of business from which Kentucky tax-paid cigarettes are made available to retailers, whether such place of business is located within or without this state. Such license or licenses shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars (\$500) for each such year or portion thereof for which such license is secured.
- (4) Each vending machine operator shall secure a license for the privilege of dispensing Kentucky tax-paid cigarettes by vending machines. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of twenty-five dollars (\$25) for each year or portion thereof for which such license is secured. No vending machine shall be operated within this Commonwealth without having prominently affixed thereto the name of its operator, together with the license number assigned to such operator by the department. The department shall prescribe by regulation the manner in which the information shall be affixed to the vending machine.
- (5) Each transporter shall secure a license for the privilege of transporting cigarettes within this state. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of fifty dollars (\$50) for each such year or portion thereof for which such license is secured. No transporter shall transport any cigarettes without having in actual possession an invoice or bill of lading therefor, showing the name and address of the consignor and consignee, the date acquired by the transporter, the name and address of the transporter, the quantity of cigarettes being transported, together with the license number assigned to such transporter by the department.
- (6) Each unclassified acquirer shall secure a license for the privilege of acquiring cigarettes on which the Kentucky cigarette tax has not been paid. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of fifty dollars (\$50) for each such year or portion thereof for which such license is secured.
- (7) (a) 1. *Each distributor shall secure a license for the privilege of selling tobacco products in this state. Each license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars (\$500) for each year or portion thereof for which the license is secured.*
2. a. *A resident wholesaler, nonresident wholesaler, or subjobber licensed under this section may also obtain and maintain a distributor's license at each place of business at no additional cost each year.*

- b. An unclassified acquirer licensed under this section may also obtain and maintain a distributor's license for the privilege of selling tobacco products in this state. The license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of four hundred fifty dollars (\$450) for each year or portion thereof for which the license is secured.*
3. *The department may, upon application, grant a distributor's license to a person other than a retailer and who is not otherwise required to hold a distributor's license under this paragraph. If the department grants the license, the licensee shall pay the sum of five hundred dollars (\$500) for each year or portion thereof for which the license is secured, and the licensee shall be subject to the excise tax in the same manner and subject to the same requirements as a distributor required to be licensed under this paragraph.*
- (b) The department may, upon application, grant a retail distributor's license to a retailer for the privilege of purchasing tobacco products from a distributor not licensed by the department. If the department grants the license, the licensee shall pay the sum of one hundred dollars (\$100) for each year or portion thereof for which the license is secured.*
- (8) Nothing in KRS 138.130 to 138.205 shall be construed to prevent the department from requiring a person to purchase more than one (1) license if the nature of such person's business is so diversified as to justify such requirement.
- (9) ~~(a)(8)~~ The department may by regulation require any person licensed under the provisions of this section to supply such information concerning his business, sales or any privilege exercised, as is deemed reasonably necessary for the regulation of such licensees, and to protect the revenues of the state.
- (b) Failure on the part of such licensee to comply with the provisions of KRS 138.130 to 138.205 or any regulations promulgated thereunder, or to permit an inspection of premises, machines or vehicles by an authorized agent of the department at any reasonable time shall be grounds for the revocation of any license issued by the department, after due notice and a hearing by the department.*
- (c) The commissioner of the department ~~of Revenue~~ may assign a time and place for such hearing and may appoint a conferee who shall conduct a hearing, receive evidence and hear arguments.*
- (d) ~~The~~ ~~Such~~ conferee shall thereupon file a report with the commissioner together with a recommendation as to the revocation of such license.*
- (e) From any revocation made by the commissioner of the department ~~of Revenue~~ on such report, the licensee may prosecute an appeal to the Kentucky Board of Tax Appeals as provided by law.*
- (f) Any person whose license has been revoked for the willful violation of any provision of KRS 138.130 to 138.205 shall not be entitled to any license provided for in this section, or have any interest in any such license, either disclosed or undisclosed, either as an individual, partnership, corporation or otherwise, for a period of one (1) year after such revocation.*
- ~~(10)(9)~~ No license issued pursuant to the provisions of this section shall be transferable or negotiable except that a license may be transferred between an individual and a corporation, if that individual is the exclusive owner of that corporation, or between a subsidiary corporation and its parent corporation.
- ~~(11)(10)~~ Every manufacturer located or doing business in this state and the first person to import cigarettes ~~or other tobacco products, or snuff~~ from a foreign manufacturer shall keep written records of all shipments of cigarettes ~~or other tobacco products, or snuff~~ to persons within this state, and shall submit to the department monthly reports of such shipments. ***All books, records, invoices, and documents required by this section shall be preserved in a form prescribed by the department for not less than four (4) years from the making of the records unless the department authorizes, in writing, the destruction of the records.***
- ~~(12)(11)~~ No person licensed under this section except nonresident wholesalers shall either sell to or purchase from any other such licensee untax-paid cigarettes.
- (13) ~~(a)(12)~~ ***Licensed distributors ~~Wholesalers~~ of ~~other~~ tobacco products ~~and snuff~~ shall pay and report the tax levied by subsection (4)(a) of Section 2 of this Act ~~KRS 138.140(4) and (5)~~ on or before the twentieth day of the calendar month following the month in which the possession or title of the ~~other~~ tobacco products ~~or smokeless tobacco products~~ are transferred from the licensed distributor ~~wholesaler~~ to retailers or consumers in this state, as the case may be.***

- (b) *Retailers who have applied for and been granted a retail distributor's license for the privilege of purchasing tobacco products from a person who is not a distributor licensed under subsection (7)(a) of Section 3 of this Act shall report and pay the tax levied by subsection (4)(c)2. of Section 2 of this Act on or before the twentieth day of the calendar month following the month in which the products are acquired by the licensed retail distributors.*
- (c) *If the distributor or retail distributor timely reports and pays the tax due, the distributor or retail distributor may deduct an amount equal to one percent (1%) of the tax due.*
- (d) *The department~~of Revenue~~ shall promulgate administrative regulations setting forth the details of the reporting requirements.*

~~(14)(13)~~ A tax return shall be filed for each reporting period whether or not tax is due.

➔SECTION 4. A NEW SECTION OF KRS 138.130 TO 138.205 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *Every manufacturer, whether located in this state or outside this state, that ships tobacco products to a distributor, retailer, retail distributor, or any other person located in this state shall file a report with the department on or before the twentieth day of each month identifying all such shipments made by the manufacturer during the preceding month. The department, within its discretion, may allow a manufacturer to file the report for periods other than monthly.*
- (b) *The reports shall identify:*
 - 1. *The names and addresses of the persons in this state to whom the shipments were made;*
 - 2. *The quantities of tobacco products shipped, by type of product and brand; and*
 - 3. *Any other information the department may require.*
- (2) *Each licensed distributor and each licensed retail distributor shall keep in each licensed place of business complete and accurate records for that place of business, including:*
 - (a) *Itemized invoices of:*
 - 1. *Tobacco products purchased, manufactured, imported, or caused to be imported into this state from outside this state, or shipped or transported to other distributors or retailers in this state or outside this state, including type of product and brand;*
 - 2. *All sales of tobacco products, including sales of tobacco products manufactured or produced in this state, including type of product and brand; and*
 - 3. *All tobacco products transferred to retail outlets owned or controlled by the licensed distributor, including type of product and brand; and*
 - (b) *Any other records required by the department.*
- (3) *Each retailer of tobacco products shall keep complete and accurate records of all purchases of tobacco products, including invoices that identify:*
 - (a) *The distributor's name and address;*
 - (b) *The name, quantity, and purchase price of the product purchased;*
 - (c) *The license number of the distributor licensed under subsection (7) of Section 3 of this Act; and*
 - (d) *The excise tax as required by subsection (4)(d)3. of Section 2 of this Act.*
- (4) *All books, records, invoices, and documents required by this section shall be preserved, in a form prescribed by the department, for not less than four (4) years from the making of the records unless the department authorizes, in writing, the destruction of the records.*

➔SECTION 5. A NEW SECTION OF KRS 138.130 TO 138.205 IS CREATED TO READ AS FOLLOWS:

- (1) *It is the declared legislative intent of KRS 138.130 to 138.205 that any untax-paid tobacco products held, owned, possessed, or in control of any person other than as provided in KRS 138.130 to 138.205 are contraband and subject to seizure and forfeiture as set out in this section.*
- (2) (a) *If a retailer, who is not a licensed retail distributor, purchases tobacco products from a licensed distributor and the purchase invoice does not contain the separate identification and display of the*

excise tax required by subsection (4)(d)3. of Section 2 of this Act, the retailer shall, within twenty-four (24) hours, notify the department in writing.

- (b) *The notification shall include the name and address of the person from whom the tobacco products were purchased and a copy of the purchase invoice.*
 - (c) *The tobacco products for which the required information was not included on the invoice shall be retained by the retailer, and not sold, for a period of fifteen (15) days after giving the proper notice as required by this subsection.*
 - (d) *After the fifteen (15) day period, the retailer may pay the tax due on the tobacco products described in paragraph (c) of this subsection according to administrative regulations promulgated by the department, and after which may proceed to sell the tobacco products.*
- (3) *If a retailer, who is not a licensed retail distributor, purchases tobacco products for resale from a person not licensed under subsection (7) of Section 3 of this Act which is prohibited by subsection (4)(c) of Section 2 of this Act, the retailer may not sell those tobacco products until the retailer applies for and is granted a retail distributor's license under subsection (7)(b) of Section 3 of this Act.*
- (4) *If upon examination the department determines that the retailer has failed to comply with the provisions of subsection (3) of this section, the retailer shall pay all tax and interest and applicable penalties due and the following shall apply:*
- (a) *For the first offense, an additional penalty shall be assessed equal to ten percent (10%) of the tax due;*
 - (b) *For a second offense within three (3) years or less of the first offense, an additional penalty shall be assessed equal to twenty-five percent (25%) of the tax due; and*
 - (c) *For a third offense or subsequent offense within three (3) years or less of the first offense, the tobacco products shall be contraband and subject to seizure and forfeiture as provided in subsection (5) of this section.*
- (5) (a) *Whenever a representative of the department finds contraband tobacco products within the borders of this state, the tobacco products shall be immediately seized and stored in a depository to be determined by the representative.*
- (b) *At the time of seizure, the representative shall deliver to the person in whose custody the tobacco products are found a receipt for the seized products. The receipt shall state on its face that any inquiry concerning any tobacco products seized shall be directed to the commissioner of the Department of Revenue, Frankfort, Kentucky.*
 - (c) *Immediately upon seizure, the representative shall notify the commissioner of the nature and quantity of the tobacco products seized. Any seized tobacco products shall be held for a period of twenty (20) days, and if after that period no person has claimed the tobacco products as his or her property, the commissioner shall cause the tobacco products to be destroyed.*
- (6) *All fixtures, equipment, materials, and personal property used in substantial connection with the sale or possession of tobacco products involved in a knowing and intentional violation of KRS 138.130 to 138.205 shall be contraband and subject to seizure and forfeiture as follows:*
- (a) *The department's representative shall seize the property and store the property in a safe place selected by the representative; and*
 - (b) *The representative shall proceed as provided in KRS 138.165(2). The commissioner shall cause the property to be sold after notice published pursuant to KRS Chapter 424. The proceeds from the sale shall be applied as provided in KRS 138.165(2).*
- (7) *The owner or any person having an interest in the fixtures, materials, or personal property that has been seized as provided by subsection (6) of this section may apply to the commissioner for remission of the forfeiture for good cause shown. If it is shown to the satisfaction of the commissioner that the owner or person having an interest in the property was without fault, the department shall remit the forfeiture.*
- (8) *Any party aggrieved by an order entered under this section may appeal to the Kentucky Board of Tax Appeals in the manner provided by law.*

➔SECTION 6. A NEW SECTION OF KRS 138.130 TO 138.205 IS CREATED TO READ AS FOLLOWS:

The department shall publish and maintain on its Web site an up-to-date list of tobacco products distributors licensed under subsection (7) of Section 3 of this Act.

- ➔Section 7. Section 4 of this Act takes effect July 1, 2013.
- ➔Section 8. Sections 1 to 3 and Section 6 of this Act take effect August 1, 2013.
- ➔Section 9. Section 5 of this Act takes effect January 1, 2014.

Signed by Governor March 22, 2013.

CHAPTER 98

(HB 378)

AN ACT relating to impaired waters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF SUBTITLE 70 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *Beginning on July 1, 2014, the cabinet shall maintain on its Web site a listing of:*
1. *All waters or portion thereof in the Commonwealth identified pursuant to 33 U.S.C. sec. 1313(d);*
 2. *Total maximum daily loads established after the effective date of this Act; and*
 3. *All waters or portion thereof in the Commonwealth for which notice is provided pursuant to subsection (2) of this section.*
- (b) *The listing required by this subsection shall include:*
1. *A detailed summary, in plain and unambiguous words that are easily understood by laymen, of the basis for the listing. The summary shall identify the location of all available data, in reasonably accessible form, utilized in the cabinet's identification of the waters or portion thereof and establishment of the total maximum daily load; and*
 2. *Sources of information utilized, sources and methods of data collection and analysis, and the age of the data utilized.*
- (c) *The cabinet shall maintain on its Web site a listing of local, state, and federal resources, along with contact information, available to communities in efforts to enhance compliance with applicable water quality standards.*
- (2) *No later than ninety (90) days prior to submitting to the United States Environmental Protection Agency a new water or portion thereof to be included in the list of waters or portion thereof identified pursuant to 33 U.S.C. secs. 1313(d)(1)(A) and 1313(d)(1)(B), the cabinet shall provide notice, in accordance with subsection (4) of this section that water quality data may indicate that the water or portion thereof does not meet water quality standards applicable to that water or portion thereof and shall offer the opportunity for review and public comment of no less than sixty (60) days on the listing decision and the data and justification therefor.*
- (3) *In addition to any other requirement imposed by federal law, prior to developing a total maximum daily load pursuant to 33 U.S.C. sec. 1313 after the effective date of this Act, the cabinet shall provide notice in accordance with subsection (4) of this section and shall offer the opportunity for public review and input throughout the total maximum daily load development process.*
- (4) *Notice provided pursuant to subsections (2) and (3) of this section may be provided electronically and shall:*
- (a) *Include a reference to the location where additional information may be found, including the county or counties in which the water or portion thereof is located; and*

- (b) *Be provided to all persons who have requested to be notified of new waters added to the listing or total maximum daily load development.*
- (5) *If any water or portion thereof that has previously been listed or a total maximum daily load established pursuant to 33 U.S.C. sec. 1313(d) meets water quality standards, the cabinet shall take all necessary measures pursuant to applicable laws and regulations to remove the listing and any requirements as a result of the establishment of the total maximum daily load, except as necessary to otherwise comply with applicable laws and regulations.*

→Section 2. The Energy and Environment Cabinet is hereby directed to provide a written report to the Interim Joint Committee on Natural Resources and Environment by December 31 of each year setting forth the cabinet's plan for total maximum daily load development for the following year. The written report also shall be made available to the public on the cabinet's Web site.

Signed by Governor March 22, 2013.

CHAPTER 99

(HB 431)

AN ACT relating to tax increment financing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

→Section 1. KRS 65.7043 is amended to read as follows:

The purposes of KRS 65.7041 to 65.7083 are as follows:

- (1) KRS 65.7047 provides authority for cities and counties to establish local development areas for the development of previously undeveloped land within their jurisdictional boundaries and to devote local resources to support the development of projects in those local development areas. Local development areas established under KRS 65.7047 and projects within local development areas shall not be eligible for participation by the Commonwealth; and
- (2) (a) KRS 65.7049, 65.7051, and 65.7053 provide a framework for cities and counties:
 1. To establish development areas for:
 - a. The redevelopment of previously developed land within their jurisdictional boundaries; and
 - b. The development of previously undeveloped land, if:
 - i. The project proposed for the development area includes an arena as part of the proposed development;
 - ii. The project is a mixed-use development located in a university research park;~~or~~
 - iii. The project is a mixed-use development located within three (3) miles of a military base that houses, deploys, or employs any combination of at least twenty-five thousand (25,000) military personnel, their families, military retirees, or civilian employees; ~~or~~~~and~~
 - iv. ***The project is a mixed-use development which includes either or both significant public storm water and sanitary sewer facilities designed to comply with a community-wide court decree mandating corrective action by the local government or an agency thereof; and***
 2. To devote local resources to providing redevelopment assistance and supporting projects in those development areas.
- (b) Projects within development areas established pursuant to KRS 65.7049, 65.7051, and 65.7053 shall be eligible for participation by the Commonwealth if such projects meet the requirements for Commonwealth participation established by Subchapter 30 of KRS Chapter 154.

➔Section 2. KRS 65.7049 is amended to read as follows:

Any city or county may establish a development area pursuant to this section, KRS 65.7051, and 65.7053 to encourage investment and reinvestment in and development, use, and reuse of areas of the city or county under the following conditions:

- (1) The area shall be contiguous and shall be no more than three (3) square miles;
- (2) The establishment or expansion of the development area shall not cause the assessed value of taxable real property within all development areas and local development areas of the city or county establishing the development area to exceed twenty percent (20%) of the assessed value of all taxable real property within its jurisdiction. For the purpose of determining whether the twenty percent (20%) threshold has been met, the assessed value of taxable real property within all of the development areas and local development areas shall be valued as of the establishment date;
- (3) The governing body of the city or county shall determine that the development area either:
 - (a) Has two (2) or more of the following conditions:
 1. Substantial loss of residential, commercial, or industrial activity or use;
 2. Forty percent (40%) or more of the households are low-income households;
 3. More than fifty percent (50%) of residential, commercial, or industrial structures are deteriorating or deteriorated;
 4. Substantial abandonment of residential, commercial, or industrial structures;
 5. Substantial presence of environmentally contaminated land;
 6. Inadequate public improvements or substantial deterioration in public infrastructure; or
 7. Any combination of factors that substantially impairs or arrests the growth and economic development of the city or county; impedes the provision of adequate housing; impedes the development of commercial or industrial property; or adversely affects public health, safety, or general welfare due to the development area's present condition and use; or
 - (b) The project is a mixed-use development:
 1. Located in a university research park;~~{or}~~
 2. Located within three (3) miles of a military base that houses, deploys, or employs any combination of at least twenty-five thousand (25,000) military personnel, their families, military retirees, or civilian employees; ~~or~~~~and~~
 3. ***The project is a mixed-use development which includes either or both significant public storm water and sanitary sewer facilities designed to comply with a community-wide court decree mandating corrective action by the local government or an agency thereof; and***
- (4) The governing body of the city or county shall find that all of the following are true for projects meeting the requirements of paragraph (a) of subsection (3) of this section:
 - (a) That the development area is not reasonably expected to be developed without public assistance. This finding shall be supported by specific reasons and supporting facts, including a clear demonstration of the financial need for public assistance; and
 - (b) That the public benefits of the development area justify the public costs proposed. This finding shall be supported by specific data and figures demonstrating that the projected benefits outweigh the anticipated costs and shall take into account the positive and negative effects of investment in the development on existing businesses and residents within the community as a whole; and
 - (c)
 1. That the area immediately surrounding the development area has not been subject to growth and development through investment by private enterprise; or
 2. If the area immediately surrounding the development area has been subject to growth and development through investment by private enterprise, the identification of special circumstances within the development area that would prevent its development without public assistance.

Signed by Governor March 22, 2013.

CHAPTER 100**(HJR 45)**

A JOINT RESOLUTION honoring the memory of a great Kentuckian, Charles Floyd, who was a member of the Lewis and Clark Expedition, and declaring August 20, 2013, as Sergeant Charles Floyd Day in the Commonwealth.

WHEREAS, Charles Floyd was born in Louisville, Kentucky, in approximately 1782, and grew up in Floyd's Station, which is the present-day St. Matthews neighborhood. He would have had a typical frontier childhood, farming and working the land his family owned along Beargrass Creek; and

WHEREAS, on July 18, 1803, William Clark agreed to Meriwether Lewis's invitation to journey to the Pacific and began recruiting men for the expedition; and

WHEREAS, by August 1, 1803, Charles Floyd was one of the first three men selected to be part of what Lewis and Clark called the Corps of Discovery. Charles Floyd received his official enlistment into the United States Army when he became a part of the group that left on their historic journey from the Falls of the Ohio on October 26, 1803; and

WHEREAS, at the young age of 21, Charles Floyd was considered a "young man of much merit" by Captain Meriwether Lewis, who deemed him responsible enough to promote him to the rank of Sergeant on April 3, 1804. Sergeant Charles Floyd served as quartermaster in the Lewis and Clark Expedition, and was one of many members who kept a journal about their travels; and

WHEREAS, Sergeant Charles Floyd became ill in July 1804 of what many today believe to be appendicitis, and died on August 20, 1804, in what is present-day Sioux City, Iowa; and

WHEREAS, the members of the Lewis and Clark Expedition honored Sergeant Charles Floyd's service with a burial that included the "honors of war" and William Clark noted in his journal that "this man at all times gave us proofs of his firmness and determined resolve to do service to his country and honor to himself." They buried him along a bluff of the Missouri River and erected a cedar post as monument to their fallen comrade; and

WHEREAS, Sergeant Charles Floyd, being one of the famous "Nine Young Men from Kentucky" recruited by Lewis and Clark for their historic journey, was the first American soldier known to have died in the service of his country west of the Mississippi River;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. The General Assembly of the Commonwealth of Kentucky honors the service and sacrifice of a true Kentucky hero, Sergeant Charles Floyd, for his role in the Lewis and Clark Expedition.

➔Section 2. The General Assembly does hereby declare August 20, 2013, as Sergeant Charles Floyd Day in the Commonwealth of Kentucky and encourages citizens to join in the celebration and learn more about Sergeant Charles Floyd, the Lewis and Clark Expedition, and the other Kentuckians who were a part of that historic journey.

Signed by Governor March 22, 2013.

CHAPTER 101**(SB 15)**

AN ACT relating to violent offenders.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 439.3401 is amended to read as follows:

- (1) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of:
- (a) A capital offense;
 - (b) A Class A felony;
 - (c) A Class B felony involving the death of the victim or serious physical injury to a victim;
 - (d) ***An offense described in KRS 507.040 or 507.050 where the offense involves the killing of a peace officer or firefighter while the officer or firefighter was acting in the line of duty;***
 - (e) The commission or attempted commission of a felony sexual offense described in KRS Chapter 510;
 - ~~(f)(e)~~ Use of a minor in a sexual performance as described in KRS 531.310;
 - ~~(g)(f)~~ Promoting a sexual performance by a minor as described in KRS 531.320;
 - ~~(h)(g)~~ Unlawful transaction with a minor in the first degree as described in KRS 530.064(1)(a);
 - ~~(i)(h)~~ Human trafficking under KRS 529.100 involving commercial sexual activity where the victim is a minor;
 - ~~(j)(i)~~ Criminal abuse in the first degree as described in KRS 508.100;
 - ~~(k)(j)~~ Burglary in the first degree accompanied by the commission or attempted commission of an assault described in KRS 508.010, 508.020, 508.032, or 508.060;
 - ~~(l)(k)~~ Burglary in the first degree accompanied by commission or attempted commission of kidnapping as prohibited by KRS 509.040; or
 - ~~(m)(l)~~ Robbery in the first degree.
- The court shall designate in its judgment if the victim suffered death or serious physical injury.
- (2) A violent offender who has been convicted of a capital offense and who has received a life sentence (and has not been sentenced to twenty-five (25) years without parole or imprisonment for life without benefit of probation or parole), or a Class A felony and receives a life sentence, or to death and his ***or her*** sentence is commuted to a life sentence shall not be released on probation or parole until he ***or she*** has served at least twenty (20) years in the penitentiary. Violent offenders may have a greater minimum parole eligibility date than other offenders who receive longer sentences, including a sentence of life imprisonment.
- (3) (a) A violent offender who has been convicted of a capital offense or Class A felony with a sentence of a term of years or Class B felony ~~who is a violent offender~~ shall not be released on probation or parole until he has served at least eighty-five percent (85%) of the sentence imposed.
- (b) ***A violent offender who has been convicted of a violation of KRS 507.040 where the victim of the offense was clearly identifiable as a peace officer or a firefighter and the victim was acting in the line of duty shall not be released on probation or parole until he or she has served at least eighty-five percent (85%) of the sentence imposed.***
- (c) ***A violent offender who has been convicted of a violation of KRS 507.040 or 507.050 where the victim of the offense was a peace officer or a firefighter and the victim was acting in the line of duty shall not be released on probation or parole until he or she has served at least fifty percent (50%) of the sentence imposed.***
- (4) A violent offender shall not be awarded any credit on his sentence authorized by KRS 197.045(1)(b)1. In no event shall a violent offender be given credit on his ***or her*** sentence if the credit reduces the term of imprisonment to less than eighty-five percent (85%) of the sentence.
- (5) This section shall not apply to a person who has been determined by a court to have been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard to the offenses involving the death of the victim or serious physical injury to the victim. The provisions of this subsection shall not extend to rape in the first degree or sodomy in the first degree by the defendant.
- (6) This section shall apply only to those persons who commit offenses after July 15, 1998.
- (7) For offenses committed prior to July 15, 1998, the version of this statute in effect immediately prior to that date shall continue to apply.

- (8) The provisions of subsection (1) of this section extending the definition of "violent offender" to persons convicted of or pleading guilty to robbery in the first degree shall apply only to persons whose crime was committed after July 15, 2002.

➔Section 2. This Act shall be known as the Bryan Durman Act.

Signed by Governor March 22, 2013.

CHAPTER 102

(SB 18)

AN ACT relating to preschool funding for children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 157.3175 is amended to read as follows:

- (1) ~~*Each*~~~~Beginning with the 1990-91 school year, it shall be the responsibility of each~~ local school district ~~*shall*~~~~to~~ assure that a developmentally appropriate half-day preschool education program is provided for each child who is ~~four (4) years of age by October 1 of each year and~~ at risk of educational failure ***and who is four (4) years of age:***

(a) ***By October 1 in any year prior to 2017; or***

(b) ***By August 1 in 2017 or any year thereafter.***

~~[Any school district which can show a lack of facilities to comply with this section may apply for an exemption to delay implementation until 1991-92.]~~All other four (4) year old children shall be served to the extent placements are available. The Kentucky Board of Education, upon the recommendation of the chief state school officer, shall adopt administrative regulations establishing the guidelines for the program. Administrative regulations shall establish eligibility criteria, program guidelines, and standards for personnel.

- (2) "Developmentally appropriate preschool program" means a program which focuses on the physical, intellectual, social, and emotional development of young children. The preschool program shall help children with their interpersonal and socialization skills.
- (3) Funds appropriated by the General Assembly for the preschool education programs shall be granted to local school districts according to a grant allotment system approved by the Kentucky Board of Education. Children who are at risk shall be identified based on the Federal School Lunch Program eligibility criteria for free lunch. Appropriations shall be separate from all other funds appropriated to the Department of Education ***and shall be administered in accordance with applicable federal and state statutes and administrative regulations. Eligible local school districts shall receive funds based on the average number of preschool children being served on December 1 and March 1 of the prior academic year who are appropriately identified as:***

(a) ***Three (3) and four (4) years of age with disabilities; and***

(b) ***Four (4) years of age identified as at risk of educational failure.***

Local school districts may develop cooperative arrangements with other school districts or organizations in accordance with KRS 157.280.

- (4) ***A child shall be eligible for a free and appropriate preschool education and related services if:***

(a) ***The child has been identified as a child with a disability in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. sec. 1400 et seq.; or***

(b) ***The child has been identified in accordance with the definitions and procedures for exceptional children and youth in accordance with KRS 157.200(1)(a) to (m); and***

(c) ***The child is three (3) or four (4) years of age:***

1. ***By October 1 in any year before 2017; or***

2. *By August 1 in 2017 or any year thereafter.*

~~(5)(4)~~ The chief state school officer shall receive and review proposals from local school districts for grants to operate or oversee the operation of developmentally appropriate preschool education programs. Districts may submit proposals for implementing new services, enhancing existing preschool education services, or contracting for services. In designing a local early childhood education program, each district shall work with existing preschool programs to avoid duplication of programs and services, to avoid supplanting federal funds, and to maximize Head Start funds in order to serve as many four (4) year old children as possible.

~~(6)(5)~~ Each program proposal shall include, at a minimum:

- (a) A description of the process conducted by the district to assure that the parents or guardians of all eligible participants have been made aware of the program and of their right to participate;
- (b) A description of the planned educational programming and related services;
- (c) The estimated number of children participating in the program;
- (d) Strategies for involving children with disabilities;
- (e) Estimated ratio of staff to children with the maximum being one (1) adult for each ten (10) children;
- (f) The estimated percentage of children participating in the program who are at risk of educational failure;
- (g) Information on the training and qualifications of program staff and documentation that the staff meet required standards;
- (h) A budget and per-child expenditure estimate;
- (i) A plan to facilitate active parental involvement in the preschool program, including provisions for complementary parent education when appropriate;
- (j) Facilities and equipment which are appropriate for young children;
- (k) The days of the week and hours of a day during which the program shall operate;
- (l) A plan for coordinating the program with existing medical and social services, including a child development and health screening component;
- (m) Assurances that participants shall receive breakfast or lunch;
- (n) Program sites which meet state and local licensure requirements;
- (o) A plan for coordinating program philosophy and activities with the local district's primary school program;
- (p) An evaluation component; and
- (q) Certification from the Head Start director that the Head Start program is fully utilized pursuant to subsection (4) of this section.

~~(7)(6)~~ Programs shall reflect an equitable geographic distribution representative of all areas of the Commonwealth.

➔Section 2. The following KRS section is repealed:

157.226 Preschool program for disabled children.

Signed by Governor March 22, 2013.

CHAPTER 103

(SB 27)

AN ACT relating to legal actions related to property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 426.220 is amended to read as follows:

- (1) If land sold under execution does not bring two-thirds of its appraised value, the defendant and his representatives may redeem it within *six months*~~[a year]~~ from the day of sale, by paying the purchaser or his representative the original purchase money and ten percent per annum interest thereon. The defendant redeeming his land shall take a receipt from the purchaser and lodge it with the clerk of the court, which receipt shall be filed and recorded with the execution under which the sale was made.
- (2) The defendant may tender the redemption money to the purchaser or his agent or attorney, if in the county where the land lies or in the county where the judgment was obtained, and if the money is refused or if the purchaser does not reside in either of the counties, the defendant may, before the expiration of *six months*~~[the year]~~, go to the clerk of the court where the execution issued and make affidavit of the tender and refusal or that the purchaser or his agent or attorney does not reside in the county where the land lies or where the execution issued, as he believes. He may then pay to the clerk the redemption money for the purchaser, and the clerk shall give a receipt therefor and file the affidavit with the execution in his office.
- (3) When the right of redemption exists, the defendant may remain in possession until the right of redemption expires.

➔Section 2. KRS 426.230 is amended to read as follows:

Land sold under execution which is subject to redemption shall not be conveyed by the officer making the sale until the expiration of *six months*~~[one year]~~ from the sale, nor shall he convey after that period if the land has been redeemed or an affidavit made and the money deposited with the clerk as provided in KRS 426.220, unless by court order or with the written assent of the defendant in the execution.

➔Section 3. KRS 426.240 is amended to read as follows:

The right of redemption may be sold under execution. The land shall still be subject to redemption by the defendant, from both purchasers, for *six months*~~[one year]~~ from the first sale. The purchaser of the right of redemption may, before the end of *six months*~~[a year]~~ from the first sale, pay the prior purchaser his money and interest as provided in KRS 426.220, and be entitled to the land, subject to the rights of possession and redemption held by the defendant in the execution.

➔Section 4. KRS 134.452 is amended to read as follows:

- (1) Notwithstanding any other provisions of this chapter, a third-party purchaser of a certificate of delinquency shall be entitled to collect only the following prelitigation fees:
 - (a) The amount actually paid for the certificate of delinquency;
 - (b) Interest as provided in KRS 134.125, calculated on the amount actually paid to the county clerk from the date the certificate of delinquency was purchased until paid; and
 - (c)
 1. Prelitigation attorneys' fees, which may include amounts incurred for collection efforts and costs related to notification, processing, research, communication, compliance, legal costs, documentation, and similar expenses, from the date the third-party purchaser purchases the certificate of delinquency from the county clerk, to the date on which the notice required by KRS 134.490(2) is mailed by the third-party purchaser. The amount that may be collected by the third-party purchaser as prelitigation attorneys' fees shall be subject to the following limitations:
 2.
 - a. If the amount paid for a certificate of delinquency is between five dollars (\$5) and three hundred fifty dollars (\$350), actual reasonable fees incurred up to one hundred percent (100%) of the amount of the certificate of delinquency, not to exceed three hundred fifty dollars (\$350);
 - b. If the amount paid for a certificate of delinquency is between three hundred fifty-one dollars (\$351) and seven hundred dollars (\$700), actual reasonable fees incurred up to eighty percent (80%) of the amount of the certificate of delinquency, not to exceed five hundred sixty dollars (\$560); and
 - c. If the amount paid for a certificate of delinquency is above seven hundred one dollars (\$701), actual reasonable fees incurred up to seventy percent (70%) of the amount of the certificate of delinquency, not to exceed seven hundred dollars (\$700).
 - d. If a third-party purchaser is the owner of more than one (1) certificate of delinquency against the same taxpayer, actual and reasonable prelitigation attorneys' fees for all

certificates of delinquency against the same taxpayer shall not exceed one and one-half (1.5) times the maximum amount permitted in paragraph (a) of this subsection for the largest tax bill owed by the taxpayer; and

3. The amounts allowed by subparagraph 2. of this paragraph shall not accrue to the account of the delinquent taxpayer, nor be charged by the third-party purchaser against the delinquent taxpayer all at one (1) time unless the amount of certificate of delinquency is one hundred seventy-five dollars (\$175) or less. The third-party purchaser may accrue to the account of the delinquent taxpayer, and charge the delinquent taxpayer an amount equal to the lesser of prelitigation attorney's fees incurred by the third-party purchaser since the prior notice was sent or one hundred seventy-five dollars (\$175), for each notice sent to the delinquent taxpayer, provided that:
 - a. The total aggregate amount of prelitigation attorneys' fees that may accrue to the account of the delinquent taxpayer and be charged by the third-party purchaser against the delinquent taxpayer shall not exceed the limitations established by paragraph (a) of this subsection; and
 - b. Additional fees shall not accrue to the account of the delinquent taxpayer or be charged by the third-party purchaser against the delinquent taxpayer more frequently than every ninety (90) days, regardless of how many notices the third-party purchaser may send.
- (2) If the delinquent taxpayer and the third-party purchaser enter into a payment agreement, the third-party purchaser may collect the installment payment processing fee authorized by KRS 134.490(5).
- (3) (a) In addition to the fees established by subsections (1), (2), and (4) of this section, a third-party purchaser may collect actual, reasonable attorneys' fees and costs that arise due to the prosecution of collection remedies or the protection of a certificate of delinquency that is involved in litigation. Fees and costs permitted under this subsection include fees and costs incurred from the first day after the notice required by KRS 134.490(2) is sent through the day any litigation is finally concluded.

(b) *For purposes of this subsection:*

 1. *Actual attorneys' litigation fees up to two thousand dollars (\$2,000) may be reasonable if the fees are based upon documented work performed at a rate commensurate with hourly rates customarily charged by private attorneys in that jurisdiction for similar services. A flat rate, without hours documented for work performed, may be reasonable if the flat fee is determined to be discounted from the usual and customary rates for comparable work; and*
 2. *Any attorneys' litigation fee in excess of two thousand dollars (\$2,000) shall be allowed if authorized by the court upon a finding that the third-party purchaser incurred actual attorneys' litigation fees in excess of two thousand dollars (\$2,000) and that those attorneys' litigation fees were warranted based upon the complexity of the issues presented in the litigation.*
- (4) The third-party purchaser may collect administrative fees incurred for preparing, recording, and releasing an assignment of the certificate of delinquency in the county clerk's office, not to exceed one hundred fifteen dollars (\$115).
- (5) The General Assembly recognizes that third-party purchasers play an important role in the delinquent tax collection system, allowing taxing districts to receive needed funds on a timely basis. The General Assembly has carefully considered the fees and charges authorized by this section, and has determined that the amounts established are reasonable based on the costs of collection and fees and charges incurred in litigation.
- (6) A certificate of delinquency owned by a third-party purchaser shall be deemed a general intangible for the purposes of Article 9 of KRS Chapter 355.

Signed by Governor March 22, 2013.

(SB 61)

AN ACT relating to early high school graduation and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO BE NUMBERED AS KRS 158.142 AND TO READ AS FOLLOWS:

- (1) *Beginning with the 2014-2015 school year, a public school student may complete an early high school graduation program and qualify for an Early Graduation Scholarship Certificate for use at a Kentucky public two (2) year community and technical college or a Kentucky four (4) year public or non-profit, independent institution that is accredited by the Southern Association of Colleges and Schools, if conditions specified in this section are met.*
- (2) *Each student desiring to complete an early graduation program shall indicate to the secondary school principal his or her intent prior to the beginning of grade nine (9) or as soon thereafter as the intent is known. The intent shall be indicated on a form provided by the Kentucky Department of Education and signed by the parent.*
- (3) *For early graduation in accordance with this section, a student shall:*
 - (a) *Obtain a qualifying benchmark score as determined by the Kentucky Board of Education on each of the end-of-course examinations that make up the high school achievement portion of the accountability system under KRS 158.6453;*
 - (b) *Successfully complete the requirements for early high school graduation as established in administrative regulation by the Kentucky Board of Education; and*
 - (c) *Score on the ACT examination at or above the benchmarks set by the Council on Postsecondary Education for mathematics, reading, and English and any additional content areas for which the Council on Postsecondary Education establishes benchmarks.*
- (4) *The Kentucky Board of Education or a local board of education shall not impose graduation requirements that would prohibit a student who is pursuing an early graduation program as described in this section from finishing high school in less than four (4) years.*
- (5) *Students pursuing early graduation may take two (2) high school English courses in an academic year.*
- (6) *Students pursuing early graduation may complete selected courses at the middle school level. Each school district is encouraged to provide access to all middle school students to English I and Algebra I courses for high school credit. Access may be provided by each middle school offering the course on-site or by the district providing transportation for students to a central location within the district, to a neighboring school within the district, or to a neighboring school district. The district may also provide access for the student to take these courses on-line based on the local board of education policy.*
- (7) *(a) In addition to the regular high school diploma, a student who completes a program of study that meets the requirements of subsection (3) of this section shall receive an Early Graduation Scholarship Certificate signed by the high school principal and district superintendent.*
 - (b) *A student who earns an Early Graduation Scholarship Certificate shall be eligible for a scholarship award to be used at an institution described in subsection (1) of this section. The award amount shall be equal to one-half (1/2) of the state portion of the average statewide per pupil guaranteed base funding level as described in Section 3 of this Act for the year in which the student graduates.*
 - (c) *The student shall be eligible for the scholarship award only for the next academic year following early graduation.*
 - (d) *Each public high school shall report all Early Graduation Scholarship Certificate recipients by July 1 for the previous academic year to the Kentucky Higher Education Assistance Authority.*
 - (e) *Each postsecondary institution described in subsection (1) of this section shall notify the Kentucky Higher Education Assistance Authority of students with an Early Graduation Scholarship Certificate who enroll in the institution. The authority shall disburse the award amount described in paragraph (b) of this subsection from the early graduation trust fund established by Section 2 of this Act.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) *The early graduation scholarship trust fund is created as a separate restricted fund to be administered by the Kentucky Higher Education Assistance Authority. The trust fund shall consist of funds from grants, contributions, appropriations, or other moneys made available for the purposes of the trust fund.*
- (2) *Funds allocated by the General Assembly under provisions of subsection (3) of Section 3 of this Act shall be deposited into the trust fund.*
- (3) *Notwithstanding KRS 45.229, trust fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year.*
- (4) *Any interest earned on moneys in the trust fund shall become a part of the trust fund and shall not lapse.*
- (5) *Trust fund moneys shall be used for Early Graduation Scholarship Certificate awards as described in Section 1 of this Act. Funds shall be distributed by the Kentucky Higher Education Assistance Authority in accordance with Section 1 of this Act.*

➔Section 3. KRS 157.360 is amended to read as follows:

- (1) (a) In determining the cost of the program to support education excellence in Kentucky, the statewide guaranteed base funding level, as defined in KRS 157.320, shall be computed by dividing the amount appropriated for this purpose by the prior year's statewide average daily attendance.
- (b) *When determining the biennial appropriations for the program, the average daily attendance for each fiscal year shall include an estimate of the number of students graduating early under the provisions of Section 1 of this Act.*
- (2) Each district shall receive an amount equal to the base funding level for each pupil in average daily attendance in the district in the previous year, *except a district shall receive an amount equal to one-half (1/2) of the state portion of the average statewide per pupil guaranteed base funding level for each student who graduated early under the provisions of Section 1 of this Act.* Each district's base funding level shall be adjusted by the following factors:
 - (a) The number of at-risk students in the district. At-risk students shall be identified as those approved for the free lunch program under state and federal guidelines. The number of at-risk students shall be multiplied by a factor to be established by the General Assembly. Funds generated under this paragraph may be used to pay for:
 1. Alternative programs for students who are at risk of dropping out of school before achieving a diploma; and
 2. A hazardous duty pay supplement as determined by the local board of education to the teachers who work in alternative programs with students who are violent or assaultive;
 - (b) The number and types of exceptional children in the district as defined by KRS 157.200. Specific weights for each category of exceptionality shall be used in the calculation of the add-on factor for exceptional children; and
 - (c) Transportation costs. The per-pupil cost of transportation shall be calculated as provided by KRS 157.370. Districts which contract to furnish transportation to students attending nonpublic schools may adopt any payment formula which assures that no public school funds are used for the transportation of nonpublic students.
- (3) *Beginning with the 2015-2016 school year and each year thereafter, the General Assembly shall annually allocate funds equal to one-half (1/2) of the state portion of the average statewide per pupil guaranteed base funding level for each student who graduated early under the provisions of Section 1 of this Act the previous school year to the Kentucky Higher Education Assistance Authority for deposit in the early graduation scholarship trust fund.*
- (4) The program to support education excellence in Kentucky shall be fully implemented by the 1994-95 school year.
- (5)~~(4)~~ (a) Except for those schools which have implemented school-based decision making, the commissioner of education shall enforce maximum class sizes for every academic course requirement in all grades except in vocal and instrumental music, and physical education classes. Except as provided in subsection (5) of this section, the maximum number of pupils enrolled in a class shall be as follows:
 1. Twenty-four (24) in primary grades (kindergarten through third grade);

2. Twenty-eight (28) in grade four (4);
 3. Twenty-nine (29) in grades five (5) and six (6);
 4. Thirty-one (31) in grades seven (7) to twelve (12).
- (b) Except for those schools which have implemented school-based decision making, class size loads for middle and secondary school classroom teachers shall not exceed the equivalent of one hundred fifty (150) pupil hours per day.
- (c) The commissioner of education, upon approval of the Kentucky Board of Education, shall adopt administrative regulations for enforcing this provision. These administrative regulations shall include procedures for a superintendent to request an exemption from the Kentucky Board of Education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in the primary grades and grades four (4) through eight (8).
- (d) In all schools the commissioner of education shall enforce the special education maximum class sizes set by administrative regulations adopted by the Kentucky Board of Education. A superintendent may request an exemption pursuant to paragraph (c) of this subsection. A local school council may request a waiver pursuant to KRS 156.160(2). An exemption or waiver shall not be granted if the increased class size will impede any exceptional child from achieving his individual education program in the least restrictive environment.
- ~~(6)(5)~~ In grades four (4) through six (6) with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes. In combined classes other than the primary grades, no ungraded students shall be placed in a combined class with graded students. In addition, there shall be no more than two (2) consecutive grade levels combined in any one (1) class in grades four (4) through six (6). However, this shall not apply to schools which have implemented school-based decision making.
- ~~(7)(6)~~ If a local school district, through its admission and release committee, determines that an appropriate program in the least restrictive environment for a particular child with a disability includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, the school district shall count as average daily attendance in a public school the time that the child is in attendance at the school or agency, contingent upon approval by the commissioner of education.
- ~~(8)(7)~~ Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers who are actually employees of the joint or cooperative action shall be considered as employees of each school district which is a party to the agreement.
- ~~(9)(8)~~ Program funding shall be increased when the average daily attendance in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district for the first two (2) months of the previous school year. The program funds allotted the district shall be increased by the percent of increase. The average daily attendance in kindergarten is the kindergarten full-time equivalent pupils in average daily attendance.
- ~~(10)(9)~~ If the average daily attendance for the current school year in any district decreases by ten percent (10%) or more than the average daily attendance for the previous school year, the average daily attendance for purposes of calculating program funding for the next school year shall be increased by an amount equal to two-thirds (2/3) of the decrease in average daily attendance. If the average daily attendance remains the same or decreases in the succeeding school year, the average daily attendance for purposes of calculating program funding for the following school year shall be increased by an amount equal to one-third (1/3) of the decrease for the first year of the decline.
- ~~(11)(10)~~ If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the program funding allotted the district for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).

- ~~(12)~~~~(11)~~ (a) Instructional salaries for vocational agriculture classes shall be for twelve (12) months per year. Vocational agriculture teachers shall be responsible for the following program of instruction during the time period beyond the regular school term established by the local board of education: supervision and instruction of students in agriculture experience programs; group and individual instruction of farmers and agribusinessmen; supervision of student members of agricultural organizations who are involved in leadership training or other activity required by state or federal law; or any program of vocational agriculture established by the Division of Career and Technical Education in the Department of Education. During extended employment, no vocational agriculture teacher shall receive salary on a day that the teacher is scheduled to attend an institution of higher education class which could be credited toward meeting any certification requirement.
- (b) Each teacher of agriculture employed shall submit an annual plan for summer program to the local school superintendent for approval. The summer plan shall include a list of tasks to be performed, purposes for each task, and time to be spent on each task. Approval by the local school superintendent shall be in compliance with the guidelines developed by the Department of Education. The supervision and accountability of teachers of vocational agriculture's summer programs shall be the responsibility of the local school superintendent. The local school superintendent shall submit to the commissioner of education a completed report of summer tasks for each vocational agriculture teacher. Twenty percent (20%) of the approved vocational agriculture programs shall be audited annually by the State Department of Education to determine that the summer plan has been properly executed.
- ~~(13)~~~~(12)~~ (a) In allotting program funds for home and hospital instruction, statewide guaranteed base funding, excluding the capital outlay, shall be allotted for each child in average daily attendance in the prior school year who has been properly identified according to Kentucky Board of Education administrative regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education; and
- (b) Pursuant to administrative regulations of the Kentucky Board of Education, local school districts shall be reimbursed for home and hospital instruction for pupils unable to attend regular school sessions because of short term health impairments. A reimbursement formula shall be established by administrative regulations to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, and a reasonable allotment for travel expenses to and from instructional assignments, but the formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported annually on forms provided by the Department of Education.
- ~~(14)~~~~(13)~~ Except for those schools which have implemented school-based decision making and the school council has voted to waive this subsection, kindergarten aides shall be provided for each twenty-four (24) full-time equivalent kindergarten students enrolled.
- ~~(15)~~~~(14)~~ Effective July 1, 2001, there shall be no deduction applied against the base funding level for any pupil in average daily attendance who spends a portion of his or her school day in a program at a state-operated career and technical education or vocational facility.
- ~~(16)~~~~(15)~~ During a fiscal year, a school district may request that the Department of Education recalculate its funds allocated under this section if the current year average daily attendance for the twenty (20) day school month as defined in KRS 158.060(1) that contains the most days within the calendar month of January exceeds the prior year adjusted average daily attendance plus growth by at least one percent (1%). Any adjustments in the allotments approved under this subsection shall be proportional to the remaining days in the school year and subject to available funds under the program to support education excellence in Kentucky.
- ~~(17)~~~~(16)~~ To calculate the state portion of the program to support education excellence in Kentucky for a school district, the Department of Education shall subtract the local effort required under KRS 157.390(5) from the calculated base funding under the program to support education excellence in Kentucky, as required by this section. The value of the real estate used in this calculation shall be the lesser of the current year assessment or the prior year assessment increased by four percent (4%) plus the value of current year new property. The calculation under this subsection shall be subject to available funds.
- ~~(18)~~~~(17)~~ Notwithstanding any other statute or budget of the Commonwealth language to the contrary, time missed due to shortening days for emergencies may be made up by lengthening school days in the school calendar without any loss of funds under the program to support education excellence in Kentucky.

➔Section 4. KRS 157.420 is amended to read as follows:

Public school funds made available to the credit of each district during any year shall be received, held, and expended by the district board, subject to the provisions of law and administrative regulations of the Kentucky Board of Education. The following restrictions shall govern the expenditure of funds from the public school fund:

- (1) The salary paid any rank of teachers shall be at least equivalent to the amount set forth in the biennial budget schedule for each rank and experience for a term of one hundred eighty-five (185) days for full-time service during the regular school year.
- (2) Beginning with the 2004-2006 biennium, the Kentucky Board of Education shall not approve any working budget or salary schedule for local boards of education for any school year unless the one hundred eighty-five (185) day salary schedule for certified staff has been adjusted over the previous year's salary schedule by a percentage increase at least equal to the cost-of-living adjustment that is provided state government workers under the biennial budget. The base funding level in the program for support education excellence in Kentucky as defined in KRS 157.320 shall be increased by the statewide dollar value of the annual required cost-of-living percentage adjustment that shall be estimated on the sum of the previous year's statewide teachers' salaries.
- (3) A district that compensates its teachers or employees for unused sick leave at the time of retirement, pursuant to KRS 161.155, may create an escrow account to maintain the amount of funds necessary to pay teachers or employees who qualify for receipt of the benefit. The fund is limited to not more than fifty percent (50%) of the maximum liability for the current year to be determined according to the number of staff employed by the district on September 15. Interest generated by the account shall be calculated as part of the total amount. The funds shall not be used for any purpose other than compensation for unused sick leave at the time of retirement and shall not be considered as part of the general fund balance in determining available local revenue for purposes of KRS 157.620.
- (4)
 - (a) The per pupil capital outlay allotment for each district from the public school fund and from local sources shall be kept in a separate account and may be used by the district only for capital outlay projects approved by the commissioner of education in accordance with requirements of law, and based on a survey made in accordance with administrative regulations of the Kentucky Board of Education. These funds shall be used for the following capital outlay purposes:
 1. For direct payment of construction costs;
 2. For debt service on voted and funding bonds;
 3. For payment or lease-rental agreements under which the board eventually will acquire ownership of a school plant;
 4. For the retirement of any deficit resulting from overexpenditure for capital construction, if such deficit resulted from an emergency declared by the Kentucky Board of Education under KRS 160.550; and
 5. As a reserve fund for the above-named purposes, to be carried forward in ensuing budgets.
 - (b) A district may submit a request to the commissioner of education to use funds from the per pupil capital outlay allotment to purchase land for a new school or to modify an existing school if the project is included on the district facility plan for completion within eight (8) years. The land shall not be included in the calculation of the school district's unmet need. The commissioner may grant or deny the district's request at his or her discretion.
 - (c) A district which has experienced an increase in adjusted average daily attendance, as defined by administrative regulation, of twenty percent (20%) or more over a five (5) year period may submit a request to the commissioner of education to use capital outlay funds for the operation of a new school for the first two (2) years following its opening. The commissioner may grant or deny the district's request at his or her discretion.
 - (d) A local school district may submit a request to the commissioner of education to use capital outlay funds for maintenance expenditures or for the purchase of property insurance without forfeiting the district's participation in the School Facilities Construction Commission program. Maintenance requests may include other priorities that are not considered major renovations, such as repair, renovation, or system upgrades that are necessary to maintain the integrity of an existing school facility.

- (5) The district may contribute capital outlay funds for energy conservation measures under guaranteed energy savings contracts pursuant to KRS 45A.345, 45A.352, and 45A.353. Use of these funds, provided in KRS 45A.353, 56.774, and 58.600, shall be based on the following:
- (a) The energy conservation measures shall include facility alteration;
 - (b) The energy conservation measures shall be identified in the district's approved facility plan;
 - (c) The current facility systems are consuming excess maintenance and operating costs;
 - (d) The savings generated by the energy conservation measures are guaranteed;
 - (e) The capital outlay funds contributed to the energy conservation measures shall be defined as capital cost avoidance as provided in KRS 45A.345(2) and shall be subject to the restrictions on usage as specified in KRS 45A.352(9); and
 - (f) The equipment that is replaced shall have exceeded its useful life as determined by a life-cycle cost analysis.
- (6) If any district has a special levy for capital outlay or debt service that is equal to the capital outlay allotment or a proportionate fraction thereof, and spends the proceeds of that levy for the above-named purposes, the commissioner of education under administrative regulations of the Kentucky Board of Education, may authorize the district to use all or a proportionate fraction of its capital outlay allotment for current expenses. However, a district which uses capital outlay funds for current expenses shall not be eligible to participate in the School Facilities Construction Commission funds, except when the current expenditures are approved by the commissioner of education under subsection (4)(b) or (c) of this section.
- (7) If a survey shows that a school district has no capital outlay needs as shown in subsection (4)(a)1., 2., 3., and 4. of this section, upon approval of the commissioner of education, these funds may be used for school plant maintenance, repair, insurance on buildings, replacement of equipment, purchase of school buses, and the purchase of modern technological equipment, including telecommunications hardware, televisions, computers, and other technological hardware to be utilized for educational purposes only.
- (8) In surveying the schools, the Department of Education shall designate each school facility as a permanent, functional, or transitional center.
- (a) "Permanent center" means a center which meets the program standards approved by the Kentucky Board of Education, is located so that students are not subjected to an excessive amount of time being transported to the site, and has established an attendance area which will maintain enrollment at capacity but will also avoid overcrowding.
 - (b) "Functional center" means a center which does not meet all the criteria established for a permanent facility, but is adequate to meet accreditation program standards to insure no substantial academic or building deficiency. The facility plan shall include additions and renovations necessary to meet current accreditation standards for which federal, state, and local funds may be used.
 - (c) "Transitional center" means a center which the local board of education has determined shall no longer be designated permanent or functional. The center shall be destined to be closed and shall not be eligible for new construction, additions, or major renovation. However, the board of education shall maintain any operating transitional center to provide a safe and healthy environment for students.
- (9) Beginning in fiscal year 2011-2012, the Kentucky Department of Education shall standardize the process for evaluating the overall quality and condition of all school buildings across the state. The evaluation process shall:
- (a) Result in consistent categorization of buildings for local planning purposes and for the distribution of state general fund moneys designated for capital construction;
 - (b) Be based on measurable, objective criteria;
 - (c) Include numerical scoring with weights to recognize building components and characteristics that address:
 - 1. Life safety issues;
 - 2. Compliance with state and federal codes;
 - 3. Compliance with requirements under the Americans with Disabilities Act;

4. Community spaces;
 5. Instructional areas;
 6. Mechanical, electrical, plumbing, and other technology systems;
 7. Site and exterior building conditions;
 8. Age of the buildings;
 9. Feasibility of building additions or major renovations;
 10. The districts' facility capacities;
 11. Current use of temporary facilities; and
 12. Projected enrollment growth; and
- (d) Use of a third-party evaluator that utilizes an already established software-based system to perform the first, base-line evaluation.

- (10) The Kentucky Board of Education shall promulgate an administrative regulation upon recommendation of the Kentucky Department of Education and the School Facilities Construction Commission to implement subsection (9) of this section.
- (11) If a local school board authorized elementary, middle, or secondary education classes in a facility of a historical settlement school on January 1, 1994, the board shall continue to use the facilities provided by the settlement school if the facilities meet health and safety standards for education facilities as required by administrative regulations. The local school board and the governing body of the settlement school shall enter into a cooperative agreement that delineates the role, responsibilities, and financial obligations for each party.
- (12) Notwithstanding the provisions of subsections (4) and (6) of this section, a local district that has requested a mid-year adjustment in the support education excellence in Kentucky funding under KRS ~~157.360(16)~~~~{157.360(15)}~~ may request permission from the commissioner of education to use capital outlay funds for the purchase of school buses or to use the capital outlay funds for increased operational expenses for the first three (3) years following the increased growth in the district without forfeiture of the district's participation in the School Facilities Construction Commission Program. The commissioner may grant or deny the district's request.

➔Section 5. KRS 164.7879 is amended to read as follows:

- (1) Kentucky educational excellence scholarship awards shall be based upon an established base scholarship amount and an eligible high school student's grade point average. The base scholarship amount for students attaining a grade point average of at least 2.5 for the 1998-1999 academic year shall be as follows:

GPA	Amount	GPA	Amount
2.50	\$125.00	3.30	\$325.00
2.60	\$150.00	3.40	\$350.00
2.70	\$175.00	3.50	\$375.00
2.75	\$187.00	3.60	\$400.00
2.80	\$200.00	3.70	\$425.00
2.90	\$225.00	3.75	\$437.00
3.00	\$250.00	3.80	\$450.00
3.10	\$275.00	3.90	\$475.00
3.20	\$300.00	4.00	\$500.00
3.25	\$312.00		

The authority shall review the base amount of the Kentucky educational excellence scholarship each academic year and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

- (2) (a) The authority shall commit to provide to each eligible high school student the base amount of the Kentucky educational excellence scholarship for each academic year of high school study in the Kentucky educational excellence scholarship curriculum that the high school student has attained at least a 2.5 grade point average. The award shall be based upon the eligible high school student's grade point average at the close of each academic year. An award attributable to a past academic year shall not be increased after the award has been earned by an eligible high school student, regardless of any subsequent increases made to the base amount of the Kentucky educational excellence scholarship through the promulgation of an administrative regulation by the authority.
- (b) Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874, any high school student who maintains Kentucky residency and completes the academic courses that are required for a Kentucky educational excellence scholarship while participating in an approved educational high school foreign exchange program or participating in the United States Congressional Page School may apply his or her grade point average for that academic year toward the base as described in paragraph (a) of this subsection. The grade point average shall be reported by the student's Kentucky home high school, based on an official transcript from the school that the student attended during the out-of-state educational experience. The authority shall promulgate administrative regulations that describe the approval process for the educational exchange programs that qualify under this paragraph. The provisions in this paragraph shall likewise apply to any Kentucky high school student who participated in an approved educational exchange program or in a Congressional Page School since the 1998-99 school year and maintained his or her Kentucky residency throughout.
- (c) 1. Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874 and the requirement that a student graduate from a Kentucky high school, a high school student who completes the KEES curriculum while attending an accredited out-of-state high school or Department of Defense school may apply the grade point average for any applicable academic year toward the base as described in paragraph (a) of this subsection and shall also qualify for a supplemental award under subsection (3) of this section when:
- a. His or her custodial parent or guardian is in active service of the Armed Forces of the United States; and
 - b. The custodial parent or guardian maintained Kentucky as the home of record at the time the student attended an accredited out-of-state high school or a Department of Defense school.
2. The student or parent shall arrange for the out-of-state school to report the student's grade point average each academic year and the student's highest ACT score to the authority as required under KRS 164.7885. The authority shall promulgate administrative regulations implementing the requirements in this paragraph, including:
- a. The documentation that the parent shall submit to the authority establishing the student's eligibility for the scholarship; and
 - b. The assurances that an out-of state institution shall submit to the authority for submission of the student grade point average.
3. The provisions in this paragraph shall apply to the 2001-2002 school year and thereafter.
- (d) ***Beginning with the 2013-2014 academic year, a student who meets the Kentucky core academic standards for high school graduation established in administrative regulation and graduates after completing three (3) years of high school shall receive a Kentucky educational excellence scholarship award equivalent to completing high school in four (4) years. The award shall be determined by dividing the total actual KEES scholarship earned under subsection (1) of this section by three (3) and multiplying that number by four (4). The resulting number shall be the annual award the student is eligible for under subsection (1) of this section.***
- (3) (a) The authority shall commit to provide to each eligible high school student graduating from high school before June 30, 1999, and achieving a score of at least 15 on the American College Test, a supplemental award for the award period beginning in the fall of 1999, based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT

Annual

ACT

Annual

Score	Bonus	Score	Bonus
15	\$21	22	\$171
16	\$43	23	\$193
17	\$64	24	\$214
18	\$86	25	\$236
19	\$107	26	\$257
20	\$129	27	\$279
21	\$150	28 or above	\$300

Subsequent supplemental awards for eligible high school students graduating before June 30, 1999, shall be determined in accordance with the provisions of paragraph (b) of this subsection.

- (b) The authority shall commit to provide to each eligible high school student upon achievement after June 30, 1999, of an ACT score of at least 15 on the American College Test a supplemental award based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT Score	Amount	ACT Score	Amount
15	\$36	22	\$286
16	\$71	23	\$321
17	\$107	24	\$357
18	\$143	25	\$393
19	\$179	26	\$428
20	\$214	27	\$464
21	\$250	28 and above	\$500

The authority shall review the base amount of the supplemental award beginning with the 2001-2002 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

- (c) Beginning with the 2008-2009 academic year, the authority shall commit to provide a supplemental award for achievement on examinations for Advanced Placement or International Baccalaureate as defined in KRS 158.007 to an eligible high school student whose family was eligible for free or reduced-price lunch for any year during high school enrollment.
1. The supplemental award for AP examination scores are as follows:
 - a. Two hundred dollars (\$200) for each score of three (3);
 - b. Two hundred fifty dollars (\$250) for each score of four (4); and
 - c. Three hundred dollars (\$300) for each score of five (5).
 2. The supplemental award for IB examination scores are as follows:
 - a. Two hundred dollars (\$200) for each score of five (5);
 - b. Two hundred fifty dollars (\$250) for each score of six (6); and
 - c. Three hundred dollars (\$300) for each score of seven (7).
- (d) The authority shall promulgate administrative regulations establishing the eligibility criteria and procedures for making a supplemental award to Kentucky residents who are citizens, nationals, or permanent residents of the United States and who graduate from a nonpublic secondary school not certified by the Kentucky Board of Education and Kentucky residents who are citizens, nationals, or permanent residents of the United States and who obtain a General Educational Development (GED)

diploma within five (5) years of their high school graduating class, and students under subsection (2)(c) of this section who do not attend an accredited high school.

Signed by Governor March 22, 2013.

CHAPTER 105

(SB 64)

AN ACT relating to Kentucky Educational Excellence Scholarships.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 164.7879 is amended to read as follows:

- (1) Kentucky educational excellence scholarship awards shall be based upon an established base scholarship amount and an eligible high school student's grade point average. The base scholarship amount for students attaining a grade point average of at least 2.5 for the 1998-1999 academic year shall be as follows:

GPA	Amount	GPA	Amount
2.50	\$125.00	3.30	\$325.00
2.60	\$150.00	3.40	\$350.00
2.70	\$175.00	3.50	\$375.00
2.75	\$187.00	3.60	\$400.00
2.80	\$200.00	3.70	\$425.00
2.90	\$225.00	3.75	\$437.00
3.00	\$250.00	3.80	\$450.00
3.10	\$275.00	3.90	\$475.00
3.20	\$300.00	4.00	\$500.00
3.25	\$312.00		

The authority shall review the base amount of the Kentucky educational excellence scholarship each academic year and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

- (2) (a) The authority shall commit to provide to each eligible high school student the base amount of the Kentucky educational excellence scholarship for each academic year of high school study in the Kentucky educational excellence scholarship curriculum that the high school student has attained at least a 2.5 grade point average. The award shall be based upon the eligible high school student's grade point average at the close of each academic year. An award attributable to a past academic year shall not be increased after the award has been earned by an eligible high school student, regardless of any subsequent increases made to the base amount of the Kentucky educational excellence scholarship through the promulgation of an administrative regulation by the authority.
- (b) Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874, any high school student who maintains Kentucky residency and completes the academic courses that are required for a Kentucky educational excellence scholarship while participating in an approved educational high school foreign exchange program or participating in the United States Congressional Page School may apply his or her grade point average for that academic year toward the base as described in paragraph (a) of this subsection. The grade point average shall be reported by the student's Kentucky home high school, based on an official transcript from the school that the student attended during the out-of-state educational experience. The authority shall promulgate administrative regulations that describe the approval process for the educational exchange programs that qualify under this paragraph. The provisions in this paragraph shall likewise apply to any Kentucky high school

student who participated in an approved educational exchange program or in a Congressional Page School since the 1998-99 school year and maintained his or her Kentucky residency throughout.

- (c) 1. Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874 and the requirement that a student graduate from a Kentucky high school, a high school student who completes the KEES curriculum while attending an accredited out-of-state high school or Department of Defense school may apply the grade point average for any applicable academic year toward the base as described in paragraph (a) of this subsection and shall also qualify for a supplemental award under subsection (3) of this section when:
 - a. His or her custodial parent or guardian is in active service of the Armed Forces of the United States; and
 - b. The custodial parent or guardian maintained Kentucky as the home of record at the time the student attended an accredited out-of-state high school or a Department of Defense school.
- 2. The student or parent shall arrange for the out-of-state school to report the student's grade point average each academic year and the student's highest ACT score to the authority as required under KRS 164.7885. The authority shall promulgate administrative regulations implementing the requirements in this paragraph, including:
 - a. The documentation that the parent shall submit to the authority establishing the student's eligibility for the scholarship; and
 - b. The assurances that an out-of state institution shall submit to the authority for submission of the student grade point average.
- 3. The provisions in this paragraph shall apply to the 2001-2002 school year and thereafter.

(d) Beginning with the 2013-2014 academic year, a student who meets the Kentucky core academic standards for high school graduation established in administrative regulation and graduates after completing three (3) years of high school shall receive a Kentucky educational excellence scholarship award equivalent to completing high school in four (4) years. The award shall be determined by dividing the total actual KEES scholarship earned under subsection (1) of this section by three (3) and multiplying that number by four (4). The resulting number shall be the annual award the student is eligible for under subsection (1) of this section.

- (3) (a) The authority shall commit to provide to each eligible high school student graduating from high school before June 30, 1999, and achieving a score of at least 15 on the American College Test, a supplemental award for the award period beginning in the fall of 1999, based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT Score	Annual Bonus	ACT Score	Annual Bonus
15	\$21	22	\$171
16	\$43	23	\$193
17	\$64	24	\$214
18	\$86	25	\$236
19	\$107	26	\$257
20	\$129	27	\$279
21	\$150	28 or above	\$300

Subsequent supplemental awards for eligible high school students graduating before June 30, 1999, shall be determined in accordance with the provisions of paragraph (b) of this subsection.

- (b) The authority shall commit to provide to each eligible high school student upon achievement after June 30, 1999, of an ACT score of at least 15 on the American College Test a supplemental award based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT		ACT	
Score	Amount	Score	Amount
15	\$36	22	\$286
16	\$71	23	\$321
17	\$107	24	\$357
18	\$143	25	\$393
19	\$179	26	\$428
20	\$214	27	\$464
21	\$250	28 and above	\$500

The authority shall review the base amount of the supplemental award beginning with the 2001-2002 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

- (c) Beginning with the 2008-2009 academic year, the authority shall commit to provide a supplemental award for achievement on examinations for Advanced Placement or International Baccalaureate as defined in KRS 158.007 to an eligible high school student whose family was eligible for free or reduced-price lunch for any year during high school enrollment.
1. The supplemental award for AP examination scores are as follows:
 - a. Two hundred dollars (\$200) for each score of three (3);
 - b. Two hundred fifty dollars (\$250) for each score of four (4); and
 - c. Three hundred dollars (\$300) for each score of five (5).
 2. The supplemental award for IB examination scores are as follows:
 - a. Two hundred dollars (\$200) for each score of five (5);
 - b. Two hundred fifty dollars (\$250) for each score of six (6); and
 - c. Three hundred dollars (\$300) for each score of seven (7).
- (d) The authority shall promulgate administrative regulations establishing the eligibility criteria and procedures for making a supplemental award to Kentucky residents who are citizens, nationals, or permanent residents of the United States and who graduate from a nonpublic secondary school not certified by the Kentucky Board of Education and Kentucky residents who are citizens, nationals, or permanent residents of the United States and who obtain a General Educational Development (GED) diploma within five (5) years of their high school graduating class, and students under subsection (2)(c) of this section who do not attend an accredited high school.

Signed by Governor March 22, 2013.

CHAPTER 106

(SB 69)

AN ACT relating to business entities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 11A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Business" means any corporation, limited liability company, partnership, limited-~~liability~~ partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding

company, joint stock company, receivership, trust, or any legal entity through which business is conducted, *whether or not* for profit;

- (2) "Commission" means the Executive Branch Ethics Commission;
- (3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;
- (4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;
- (5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received; "gift" does not include gifts from family members, campaign contributions, or door prizes available to the public;
- (6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;
- (7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, executive directors, principal assistants, division directors, members and full-time chief administrative officers of the Parole Board, Board of Tax Appeals, Board of Claims, Kentucky Retirement Systems board of trustees, Kentucky Teachers' Retirement System board of trustees, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Kentucky Occupational Safety and Health Review Commission, the Kentucky Board of Education, the Council on Postsecondary Education, and any person who holds a personal service contract to perform on a full-time basis for a period of time not less than six (6) months a function of any position listed in this subsection;
- (8) "Official duty" means any responsibility imposed on a public servant by virtue of his position in the state service;
- (9) "Public servant" means:
 - (a) The Governor;
 - (b) The Lieutenant Governor;
 - (c) The Secretary of State;
 - (d) The Attorney General;
 - (e) The Treasurer;
 - (f) The Commissioner of Agriculture;
 - (g) The Auditor of Public Accounts; and
 - (h) All employees in the executive branch including officers as defined in subsection (7) of this section and merit employees;
- (10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government. A public servant is employed by the agency by which his appointing authority is employed, unless his agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;
- (11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(22) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(8);
- (12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts;
- (13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of this section;

- (14) "Does business with" or "doing business with" means contracting, entering into an agreement, leasing, or otherwise exchanging services or goods with a state agency in return for payment by the state, including accepting a grant, but not including accepting a state entitlement fund disbursement;
- (15) "Public agency" means any governmental entity;
- (16) "Appointing authority" means the agency head or any person whom he has authorized by law to act on behalf of the agency with respect to employee appointments;
- (17) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else;
- (18) "Directly involved" means to work on personally or to supervise someone who works on personally;~~and~~
- (19) "Sporting event" means any professional or amateur sport, athletic game, contest, event, or race involving machines, persons, or animals, for which admission tickets are offered for sale and that is viewed by the public; **and**
- (20) ***"Person" means an individual, proprietorship, firm, partnership, limited partnership, joint venture, joint stock company, syndicate, business or statutory trust, donative trust, estate, company, corporation, limited liability company, association, club, committee, organization, or group of persons acting in concert.***

➔Section 2. KRS 11A.201 is amended to read as follows:

As used in KRS 11A.201 to 11A.246 and KRS 11A.990:

- (1) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;
- (2) (a) "Expenditure" means any of the following that is made to, or for the benefit of an elected executive official, the secretary of a cabinet listed in KRS 12.250, an executive agency official, or a member of the staff of any of the officials listed in this paragraph:
1. A payment, distribution, loan, advance, deposit, reimbursement, or gift of money, real estate, or anything of value, including, but not limited to, food and beverages, entertainment, lodging, transportation, or honoraria;
 2. A contract, promise, or agreement to make an expenditure; or
 3. The purchase, sale, or gift of services or any other thing of value.
- (b) "Expenditure" does not include a contribution, gift, or grant to a foundation or other charitable organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code. "Expenditure" does not include the purchase, sale, or gift of services or any other thing of value that is available to the general public on the same terms as it is available to the persons listed in this subsection. "Expenditure" does not include a payment, contribution, gift, purchase, or any other thing of value that is made to or on behalf of any elected executive official, the secretary of a cabinet listed in KRS 12.250, an executive agency official, or any member of the staff of any of the officials listed in this paragraph who works for a state agency for which the executive agency lobbyist is not registered to influence;
- (3) "Employer" means any person who engages an executive agency lobbyist;
- (4) "Engage" means to make any arrangement, and "engagement" means arrangement, whereby an individual is employed or retained for compensation to act for or on behalf of an employer to influence executive agency decisions or to conduct any executive agency lobbying activity;
- (5) (a) "Financial transaction" means a transaction or activity that is conducted or undertaken for profit and arises from the joint ownership, or the ownership, or part ownership in common of any real or personal property or any commercial or business enterprise of whatever form or nature between the following:
1. An executive agency lobbyist, his employer, a real party in interest, or a member of the immediate family of the executive agency lobbyist, his employer, or a real party in interest; and
 2. Any elected executive official, the secretary of a cabinet listed in KRS 12.250, an executive agency official, or any member of the staff of any of the officials listed in this subparagraph.
- (b) "Financial transaction" does not include any transaction or activity described in paragraph (a) of this subsection if it is available to the general public on the same terms;

- (6) "Executive agency" means the office of an elected executive official, a cabinet listed in KRS 12.250, or any other state agency, department, board, or commission controlled or directed by an elected executive official or otherwise subject to his authority. "Executive agency" does not include any court or the General Assembly;
- (7) "Executive agency decision" means a decision of an executive agency regarding the expenditure of funds of the state or of an executive agency with respect to the award of a contract, grant, lease, or other financial arrangement under which those funds are distributed or allocated;
- (8) (a) "Executive agency lobbyist" means any person engaged to influence executive agency decisions or to conduct executive agency lobbying activity as one (1) of his main purposes on a substantial basis. The term "executive agency lobbyist" shall also include placement agents and unregulated placement agents.
- (b) "Executive agency lobbyist" does not include an elected or appointed officer or employee of a federal or state agency, state college, state university, or political subdivision who attempts to influence or affect executive agency decisions in his fiduciary capacity as a representative of his agency, college, university, or political subdivision;
- (9) (a) "Executive agency lobbying activity" means contacts made to promote, oppose, or otherwise influence the outcome of an executive agency decision by direct communication with an elected executive official, the secretary of any cabinet listed in KRS 12.250, any executive agency official, or a member of the staff of any one of the officials listed in this paragraph.
- (b) "Executive agency lobbying activity" does not include any of the following:
1. The action of any person having a direct interest in executive agency decisions, if the person acting under Section 1 of the Kentucky Constitution, assembles together with other persons for their common good, petitions any person listed in paragraph (a) of this subsection for the redress of grievances or other proper purposes;
 2. Contacts made for the sole purpose of gathering information contained in a public record; or
 3. Appearances before public meetings of executive agencies;
- (10) "Executive agency official" means an officer or employee of an executive agency whose principal duties are to formulate policy or to participate directly or indirectly in the preparation, review, or award of contracts, grants, leases, or other financial arrangements with an executive agency;
- (11) "Aggrieved party" means a party entitled to resort to a remedy;
- (12) "Elected executive official" means the Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney General, and Commissioner of Agriculture;
- (13) "Person" means an individual, proprietorship, firm, partnership, limited-~~liability~~ partnership, joint venture, joint stock company, syndicate, business *or statutory trust, donative* trust, estate, company, corporation, limited liability *company*~~corporation~~, association, club, committee, organization, or group of persons acting in concert;
- (14) "Staff" means any employee of the office of the Governor, or a cabinet listed in KRS 12.250, whose official duties are to formulate policy and who exercises administrative or supervisory authority, or who authorizes the expenditure of state funds;
- (15) "Real party in interest" means the person or entity on whose behalf an executive agency lobbyist is acting, if that person or entity is not the employer of the executive agency lobbyist;
- (16) "Substantial basis" means contacts which are intended to influence a decision that involves one or more disbursements of state funds in an amount of at least five thousand dollars (\$5,000) per year;
- (17) "Placement agent" means an individual or firm who is compensated or hired by an employer or other real party in interest for the purpose of influencing an executive agency decision regarding the investment of the Kentucky Retirement Systems or the Kentucky Teachers' Retirement System assets; and
- (18) "Unregulated placement agent" means a placement agent who is prohibited by federal securities laws and regulations promulgated thereunder from receiving compensation for soliciting a government agency.

➔Section 3. KRS 14A.3-010 is amended to read as follows:

- (1) Except as authorized by subsection (23) of this section, the real name of an entity or foreign entity shall be distinguishable from any name of record with the Secretary of State.

- (2) The real name of a corporation or nonprofit corporation shall:
- (a) 1. ~~End with~~~~Contain~~ the word "corporation," "company," or "limited" or the abbreviation "Corp.," "Inc.," "Co.," or "Ltd." or words or abbreviations of like import in another language, provided, however, that if a nonprofit corporation's name includes the word "company" or the abbreviation "Co.," it may not be immediately preceded by the word "and" or the abbreviation "&"; or
 2. If a professional service corporation, shall ~~end with~~~~contain~~ the words "professional service corporation" or the abbreviation "P.S.C."; and
 - (b) Shall not contain language stating or implying that the corporation is organized for a purpose other than that permitted by its organic act and its articles of incorporation.
- (3) The real name of a limited liability company shall ~~end with~~~~contain~~ the phrase "limited liability company" or "limited company" or the abbreviation "LLC" or "LC," provided, however, if the company is a professional limited liability company the name shall ~~end with~~~~contain~~ the phrase "professional limited liability company" or "professional limited company" or the abbreviation "PLLC" or "PLC." In the name of either a limited liability company or a professional limited liability company, the word "limited" may be abbreviated as "Ltd." and the word "Company" may be abbreviated as "Co."
- (4) The real name of a limited liability partnership registered pursuant to KRS 362.555 shall contain the phrase "Registered Limited Liability Partnership" or the abbreviation "LLP" as the last words or letters of its name.
- (5) The real name of a partnership subject to KRS 362.1-101 to 362.1-1205, the "Kentucky Revised Uniform Partnership Act (2006)":
- (a) Shall not contain the word "corporation" or "incorporated" or the abbreviation "Corp." or "Inc."; and
 - (b) May contain the word "limited" or the abbreviation "Ltd." only if the partnership has filed a statement of qualification.
- (6) The real name of a limited liability partnership that has filed a statement of qualification pursuant to KRS 362.1-1001 shall end with the phrase "Registered Limited Liability Partnership" or "Limited Liability Partnership" or the abbreviation "R.L.L.P.," "L.L.P.," "RLLP," or "LLP."
- (7) The real name of a limited partnership subject to KRS 362.401 to 362.525, the "Kentucky Revised Uniform Limited Partnership Act," shall:
- (a) Contain the word "Limited" or the abbreviation "Ltd." unless the limited partnership was formed under any statute of the Commonwealth prior to the adoption of the Kentucky Revised Uniform Limited Partnership Act; and
 - (b) Not contain the name of a limited partner unless:
 1. That name is also the name of a general partner; or
 2. The business of the limited partnership had been carried on under that name before the admission of that limited partner.
- (8) The real name of a limited partnership subject to KRS 362.2-102 to 362.2-1207, the "Kentucky Uniform Limited Partnership Act (2006)," that is not a limited liability limited partnership may contain the name of any partner and shall:
- (a) ~~End with~~~~Contain~~ the phrase "limited partnership" or "limited" or the abbreviation "L.P.," "LP," or "Ltd."; and
 - (b) Not contain the phrase "limited liability limited partnership" or the abbreviation "L.L.L.P." or "LLLP."
- (9) The real name of a limited partnership subject to KRS 362.2-102 to 362.2-1207, the "Kentucky Uniform Limited Partnership Act (2006)," that is a limited liability limited partnership may contain the name of any partner and shall:
- (a) ~~End with~~~~Contain~~ the phrase "limited liability limited partnership" or the abbreviation "L.L.L.P." or "LLLP"; and
 - (b) Not contain only the phrase "limited partnership" or the abbreviation "L.P." or "LP."
- (10) Subject to KRS 362.2-1204, subsections (8) and (9) of this section shall not apply to a limited partnership formed under any statute of this Commonwealth prior to July 15, 1988.

- (11) The real name of a rural telephone cooperative corporation:
 - (a) Shall contain the word "Telephone," "Telecommunications," "Company," or "Corporation" and the abbreviation "Inc.," unless in an affidavit made by its president or vice president, and filed with the Secretary of State, or in an affidavit made by a person signing articles of incorporation, consolidation, merger, or conversion which relate to that cooperative, and filed, together with any such articles, with the Secretary of State, it shall appear that the cooperative desires to do business in another state and is or would be precluded there from by reason of the inclusion of such words or either thereof in its name; and
 - (b) May include the word "Cooperative."
- (12) The phrase "Rural Electric Cooperative" may not be used in the name of any entity or foreign entity except for one formed under KRS Chapter 279.
- (13) Except as otherwise provided in this section, the word "cooperative" may not be used in the name of any entity doing business ~~for profit~~ in this Commonwealth.
- (14) The name of a limited cooperative association shall ~~end with~~ ~~contain~~ the words "limited cooperative association" or "limited cooperative" or the abbreviation "L.C.A." or "LCA." "Limited" may be abbreviated as "Ltd.," "Cooperative" may be abbreviated as "Co-op" or "Coop," and "Association" may be abbreviated as "Assoc." or "Assn."
- (15) There are no required identifiers for a business trust or a statutory trust, but the name of a business or statutory trust may include "Limited" or "Ltd." and may not include any of "incorporated," "corporation," "Inc.," "Corp.," "partnership," or "cooperative."
- (16) This chapter does not control the use of assumed names.
- (17) The filing of articles of incorporation, articles of organization, *articles of association*, a statement of qualification, a certificate of limited partnership, a declaration or certificate of trust, an application to transact authority in the Commonwealth, a statement of foreign qualification, a name registration, or name reservation under the particular name shall not automatically prevent the use of that name or protect that name from use by other persons.
- (18) The provisions of subsection (2)(a) of this section shall not affect the right of any nonprofit corporation existing on June 13, 1968, to continue the use of its name as then in effect.
- (19) The assumption of a nonprofit corporate name in violation of this section shall not affect or vitiate the corporate existence, but the courts of this Commonwealth having equity jurisdiction may, upon the application of the Commonwealth or of any person interested or affected, enjoin such corporation from doing business under a name assumed in violation of this section, although a certificate of incorporation may have been issued.
- (20) This section shall not apply to any domestic or foreign telephone cooperative which became subject to KRS 279.310 to 279.600 by complying with the provisions of KRS 279.470 or which does business in this Commonwealth pursuant to KRS 279.570 and which elects to retain a name which does not comply with this section.
- (21) Nothing in this section shall limit the ability of a professional regulatory board to promulgate rules governing entities and foreign entities under its jurisdiction.
- (22) The real name of a foreign entity will be determined according to KRS 365.015. For entities not covered by that statute, the real name of the foreign entity will be the real name of the entity as so recognized in the jurisdiction of its origination.
- (23) The real name of a partnership, other than that of a limited liability partnership as set forth on a statement of qualification or a registration as a limited liability partnership filed pursuant to KRS 362.555 or that of a foreign limited liability partnership as set forth on a statement of foreign qualification, need not be distinguishable from any name of record with the Secretary of State.

➔Section 4. KRS 14A.9-050 is amended to read as follows:

- (1) A certificate of authority shall authorize the foreign entity to which it is issued the authority to transact business in this Commonwealth subject, however, to the right of the Commonwealth to revoke the certificate as provided in this chapter.

- (2) A foreign entity with a valid certificate of authority shall have the same but no greater rights and shall have the same but no greater privileges as, and except as otherwise provided by this chapter shall be subject to the same duties, restrictions, penalties, and liabilities now or later imposed on, a domestic entity of like character.
- (3) This chapter shall not authorize this Commonwealth to regulate the organization or internal affairs, including the inspection of books, records, and documents, of a foreign entity **transacting**~~authorized to transact~~ business in this Commonwealth.
- (4) Nothing in this section shall be interpreted or construed to limit the capacity and authority of a professional regulatory board to regulate the terms and manner by which professional services are rendered in the Commonwealth of Kentucky through or on behalf of a foreign entity.

➔Section 5. KRS 271B.1-410 is amended to read as follows:

- (1) Notice under this chapter shall be in writing unless oral notice is reasonable under the circumstances. Notice by electronic transmission is written notice.
- (2) Notice may be communicated in person; by mail or other method of delivery; or by telephone, voice mail, or other electronic means. If these forms of personal notice are impracticable, notice may be communicated by a newspaper of general circulation in the area where published; or by radio, television, or other form of public broadcast communication.
- (3) Written notice by a domestic or foreign corporation to its shareholder, if in a comprehensible form, shall be effective:
 - (a) Upon deposit in the United States mail, if mailed postpaid and correctly addressed to the shareholder's address shown in the corporation's current record of shareholders; or
 - (b) When electronically transmitted to the shareholder in a manner authorized and in accordance with the shareholder's instructions, if any.
- (4) Written notice to a domestic or foreign corporation authorized to transact business in this state may be addressed to its registered agent at its registered office or to the corporation or its secretary at its principal office **address as of record with the Secretary of State**~~shown in its most recent annual report or, in the case of a domestic corporation that has not yet delivered an annual report, in its articles of incorporation or, in the case of a foreign corporation that has not yet delivered an annual report, in its application for a certificate of authority~~.
- (5) Except as provided in subsections (3) and (4) of this section, written notice, if in a comprehensible form, shall be effective at the earliest of the following:
 - (a) When received;
 - (b) Five (5) days after its deposit in the United States mail, if mailed postpaid and correctly addressed; or
 - (c) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.
- (6) Oral notice shall be effective when communicated, if communicated in a comprehensible manner.
- (7) If this chapter prescribes notice requirements for particular circumstances, those requirements, shall govern. If articles of incorporation or bylaws prescribe notice requirements not inconsistent with this section or other provisions of this chapter, those requirements shall govern.

➔Section 6. KRS 275.175 is amended to read as follows:

- (1) Unless otherwise provided in the articles of organization, a written operating agreement, or this chapter, the affirmative vote, approval, or consent of a majority-in-interest of the members, if management of the limited liability company is vested in the members, or a simple majority of the managers, each having a single vote, if the management of the limited liability company is vested in managers, shall be required to decide any matter connected with the business affairs of the limited liability company.
- (2) Unless otherwise provided in a written operating agreement, the affirmative vote, approval, or consent of the majority-in-interest of the members shall be required to:
 - (a) Amend a written operating agreement;

- (b) Authorize a manager or member to do any act on behalf of the limited liability company that contravenes a written operating agreement, including any written provision thereof which expressly limits the purpose, business, or affairs of the limited liability company or the conduct thereof; or
 - (c) Amend the articles of organization ~~[to change the management of the limited liability company from members to managers or from managers to members].~~
- (3) Unless otherwise provided in the articles of organization, a written operating agreement, or this chapter, for all purposes of this chapter, the members of a limited liability company shall vote, approve, or consent in proportion to their contributions, based upon the agreed value as stated in the records of the limited liability company as required by KRS 275.185, made by each member to the extent they have been received by the limited liability company and have not been returned.
- (4) Unless otherwise provided in the articles of organization or the written operating agreement, no member of a limited liability company shall have the right to dissent from an amendment to the operating agreement ***or the articles of organization.***

➔Section 7. KRS 275.185 is amended to read as follows:

- (1) A limited liability company shall keep at its principal office or other location as set forth in a written operating agreement, the following:
- (a) A current list, and all past lists, setting forth the full name and last known mailing address of each member and, if any, each manager;
 - (b) A copy of the articles of organization and all amendments thereto, together with executed copies of any power of attorney pursuant to which any articles of amendment have been executed;
 - (c) Copies of the limited liability company's federal, state, and local income tax returns and financial statements, if any, for the three (3) most recent years or, if those returns and statements were not prepared, copies of the information and statements provided to, or which should have been provided to, the members to enable them to prepare their federal, state, and local tax returns for those years;
 - (d) Copies of any effective written operating agreements and all amendments thereto, and copies of any written operating agreements no longer in effect; and
 - (e) Unless contained in writing in an operating agreement:
 1. A writing setting forth the amount of cash, if any, and a statement of the agreed value of other property or services, if any, contributed by each member and the times at which or events upon the happening of which any additional contributions are to be made;
 2. A writing stating events, if any, upon the happening of which the limited liability company is to be dissolved and its affairs wound up; and
 3. Other writings, if any, prepared pursuant to a requirement, if any, in an operating agreement.
- (2) ***Subject to subsection (5) of this section,*** upon reasonable written request ***to the limited liability company,*** a member may, at the member's own expense, inspect and copy during ordinary business hours any limited liability company record, where the record is located or at a reasonable location.
- (3) Members, if the management of the limited liability company is vested in the members, or managers, if management of the limited liability company is vested in managers, shall render, to the extent the circumstances render it just and reasonable, true and full information of all matters affecting the members to any member, and the member's agent, and to the legal representative of any deceased member or of any member under legal disability.
- (4) Failure of the limited liability company to keep or maintain any of the records or information required pursuant to this section shall not be grounds for imposing liability on any member or manager for the debts and obligations of the limited liability company.
- (5) A written operating agreement may impose reasonable limitations upon the ***inspection and*** use of any record of or information with respect to a limited liability company. Except as to limitations set forth in a written operating agreement to which a member requesting information has assented, the limited liability company bears the burden of proof in demonstrating the reasonableness of any restrictions imposed.

➔Section 8. KRS 281.6251 is amended to read as follows:

- (1) Notwithstanding the provisions of KRS 13B.050, any person, partnership, *limited partnership*, corporation, limited liability ~~company~~~~corporation~~, or any other entity applying for a certificate in accordance with KRS 281.625 shall advertise his or her intention to apply for a certificate by using one (1) of the following methods:
- (a) Publication of a public notice under KRS 424.130(1)(b). The applicant shall cause the notice to be published once a week for three (3) consecutive weeks in a prominent manner in a newspaper of general circulation in the proposed territory, the first publication to be made within seven (7) days of the filing of the application with the cabinet; or
 - (b) Correspondence by electronic mail with every existing certificate holder affected by the application giving notice of the intention to apply for a certificate.
- (2) The notice required under this section shall conform in all material respects to the following requirements:
- (a) The notice shall state:
 1. The name and address of the applicant if the applicant is an individual;
 2. The name and address of each partner and the name and address of the business if the applicant is a partnership *or limited partnership*;
 3. The name and address of each principal officer and director and the name and business address of the corporation if the applicant is a corporation; or
 4. The name and address of each member *and each manager* if the applicant is a limited liability ~~company~~~~corporation~~;
 - (b) The notice shall specifically describe the proposed route or territory for which the certificate is sought and the type of certificate being requested; and
 - (c) The notice shall state the date the application will be filed and shall contain the following statement: "Any person~~, association, corporation, or LLC~~ who has an interest in the granting of a certificate in the territory sought to be served may protest the granting of the certificate by writing the Transportation Cabinet, Office of Legal Services, 200 Mero Street, Frankfort, Kentucky 40622, within thirty (30) days of the date of legal publication."

➔Section.9 KRS 386A.3-050 is amended to read as follows:

- (1) A statutory trust has perpetual existence.
- (2) A statutory trust, or any series thereof, may not be terminated or revoked except in accordance with this chapter or the terms of the governing instrument.
- (3) A statutory trust does not terminate because the same person is the sole trustee and sole beneficial owner.
- (4) A series of a statutory trust does not terminate because the same person is the sole trustee and the sole beneficial owner associated with the series.
- (5) That the same person is the sole trustee and sole beneficial owner of a statutory trust or of a series thereof is not a basis for not applying KRS 386A.3-040(3) or (4).
- (6) ***The death, incapacity, dissolution, termination, or bankruptcy of a beneficial owner or of a trustee does not result in the termination or dissolution of the statutory trust or any series with which the beneficial owner or trustee has been associated.***

➔Section 10. KRS 386A.6-030 is amended to read as follows:

- (1) ~~[Any distribution by a statutory trust before dissolution shall be made in proportion to the beneficial interests.~~
- ~~(2)~~—A contribution of a beneficial owner to a statutory trust may be in cash, property, or services rendered or a promissory note or other obligation to contribute cash or property or to perform services. A person may become a beneficial owner of a statutory trust and may receive a beneficial interest in a statutory trust without making or being obligated to make a contribution to the trust.
- ~~(2)~~~~(3)~~ An obligation of a beneficial owner to make a contribution, whether of cash, property, or services, to the statutory trust shall not be enforceable unless set forth in a writing signed by the beneficial owner.
- ~~(3)~~~~(4)~~ Unless otherwise provided in a governing instrument, a beneficial owner shall be obligated to the statutory trust to perform any enforceable promise to contribute cash or property or to perform services, even if the beneficial owner is unable to perform because of death, disability, or other reason. If a beneficial owner

does not make a required contribution of property or services, then the beneficial owner shall be obligated, at the option of the statutory trust, to contribute cash equal to that portion of value of the stated contribution that has not been made. This obligation is in addition to any other right, including the right to specific performance, that the trust has against the beneficial owner under the governing instrument or applicable law.

~~(4)~~~~(5)~~ Unless otherwise provided in a governing instrument, an obligation of a beneficial owner to make a contribution may be compromised by the beneficial owners. Notwithstanding any compromise, a creditor of a statutory trust who extended credit or otherwise acted in reliance on an obligation after the beneficial owner executed a writing which reflects that obligation and before any such compromise is reached may enforce the original obligation.

➔Section 11. KRS 386A.6-040 is amended to read as follows:

- (1) ***Any distribution by a statutory trust before dissolution shall be made in proportion to the beneficial interests.***
- (2) When a beneficial owner becomes entitled to receive a distribution, the trust's indebtedness to a beneficial owner shall be at parity with the trust's indebtedness to its general creditors except to the extent subordinated by agreement.
- ~~(3)~~~~(2)~~ When a beneficial owner associated with a series becomes entitled to a distribution, the series's indebtedness to a beneficial owner shall be at parity with the series's indebtedness to its general creditors except as subordinated by agreement.

~~(4)~~~~(3)~~ Unless otherwise provided in a governing instrument:

- (a) A beneficial owner, regardless of the nature of the beneficial owner's contribution, shall not have a right to demand and receive a distribution in any form other than cash; and
- (b) A beneficial owner shall not be compelled to accept a distribution of any asset in kind to the extent that the percentage of the asset distributed to the beneficial owner exceeds the percentage that the beneficial owner would have shared in cash distribution equal to the value of the property at the time of distribution.

➔Section 12. KRS 433.900 is amended to read as follows:

As used in KRS 433.900 to 433.906, unless the context otherwise requires:

- (1) "Applicant" means a secondary metals recycler seeking an application for a certificate of registration with the Office of Occupations and Professions of the Public Protection Cabinet, as provided in KRS 433.902. If the secondary metals recycler is owned by a corporation, limited liability ~~company~~~~corporation~~, ***partnership***, ~~limited~~~~liability~~ partnership, incorporated association, or any other entity organized for the purpose of engaging in business as a secondary metals recycler, "applicant" means the officers of these entities;
- (2) "Ferrous metals" means any metal containing significant quantities of iron or steel;
- (3) "Nonferrous metals" means metal not containing significant quantities of iron, including but not limited to copper, brass, aluminum, bronze, lead, zinc, nickel, and alloys thereof;
- (4) "Name-based background check" means a statewide search of the centralized criminal history record information system by the Department of Kentucky State Police, utilizing the name, date of birth, and Social Security number of the applicant;
- (5) "Restricted metals" means any of the following metal items:
 - (a) Manhole covers;
 - (b) Electric light poles or other utility poles;
 - (c) Guardrails;
 - (d) Street signs, traffic signs, or traffic signals;
 - (e) Whole road tiles;
 - (f) Funeral markers or funeral vases;
 - (g) Railroad equipment, including but not limited to a tie plate, signal house, control box, switch plate, e-clip, or rail tie junction;

- (h) Condensing or evaporating coils made from copper, aluminum, or aluminum-copper, including the tubing or rods from a heating or air conditioning unit that is not from a window air conditioning unit or automobile air conditioning unit;
 - (i) Stainless steel beer kegs;
 - (j) A catalytic converter or any nonferrous part of a catalytic converter unless purchased as part of a vehicle; or
 - (k) Storm drain covers; and
- (6) (a) "Secondary metals recycler" means:
1. Any person who is engaged in the business of gathering or obtaining ferrous or nonferrous metals that have served their original economic purpose or is in the business of performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential monetary value;
 2. Any person who has facilities for performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential monetary value, other than by the exclusive use of hand tools, by methods including but not limited to processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form or chemical content thereof; or
 3. Any recycler, dealer in junk or metals, dealer in secondhand articles, vendor of bottles or rags, or collector of or dealer in articles found in ashes, garbage, or other refuse, whether a dealer, collector, or vendor operates an established place of business or an itinerant business.
- (b) "Secondary metals recycler" shall not include a municipal solid waste department or any entity which has been issued a municipal solid waste transporter license by the Kentucky Transportation Cabinet and which gathers or obtains ferrous or nonferrous metals in a vehicle registered in Kentucky to transport solid waste.

➔Section 13. KRS 433.902 is amended to read as follows:

- (1) (a) Each secondary metals recycler shall submit to a name-based background check as provided in subsection (2) of this section and obtain a certificate of registration from the Office of Occupations and Professions of the Public Protection Cabinet within sixty (60) days of the effective date of administrative regulations promulgated pursuant to this section.
- (b) The application for certificate of registration shall be in a form and format determined by the Office of Occupations and Professions of the Public Protection Cabinet and shall contain at a minimum the following:
1. The name of the secondary metals recycling business;
 2. The name or names of each applicant;
 3. The address of each secondary metals recycling business owned by the applicant; and
 4. Contact information for the purposes of KRS 433.906.
- (c) Any person listed on an application for a certificate of registration shall be at least eighteen (18) years of age prior to the date that the application is submitted.
- (d) Any corporation, limited liability **company** ~~corporation~~, **partnership**, limited ~~liability~~ partnership, incorporated association, or any other entity engaged in business as, or organized for the purpose of engaging in business as, a secondary metals recycler submitting an application must be organized and qualified to do business in the Commonwealth.
- (e) The Office of Occupations and Professions of the Public Protection Cabinet shall charge each applicant a reasonable fee established by administrative regulation equal to the actual administrative costs of processing an application for a certificate of registration.
- (f) If an applicant is the owner of more than one (1) secondary metals recycling location, the Office of Occupations and Professions of the Public Protection Cabinet shall charge a fee for each location that is no greater than the actual administrative costs of processing the application for certificate of

registration. Upon approval of the application, the Office of Occupations and Professions of the Public Protection Cabinet shall issue a certificate of registration for each location.

- (g) Each applicant that receives a certificate of registration from the Office of Occupations and Professions of the Public Protection Cabinet as provided in this section shall be required to pay an annual renewal fee equal to the actual administrative costs of processing the renewal of the certificate for registration.
 - (h) The list of secondary metals recyclers registered with the Office of Occupations and Professions of the Public Protection Cabinet as provided in this section shall be public information and available upon written request to the Office of Occupations and Professions of the Public Protection Cabinet.
- (2) (a) Prior to approval of the application, the Office of Occupations and Professions of the Public Protection Cabinet shall require a name-based background check on each applicant.
 - (b) Each applicant shall provide written authorization to the Department of Kentucky State Police to perform a name-based background check and release the results to the Office of Occupations and Professions of the Public Protection Cabinet.
 - (c) Any request for a name-based background check shall be on a form or through a process approved by the Department of Kentucky State Police, which may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.
 - (d) The Office of Occupations and Professions of the Public Protection Cabinet shall not issue a certificate of registration to an applicant if the name-based background check results reveal that the applicant has been convicted of, or entered a plea of guilty, an Alford plea, or a plea of nolo contendere to, a felony involving theft, larceny, dealing in stolen property, receiving stolen property, burglary, embezzlement, or obtaining property by false pretenses, any felony drug offense, or knowingly and intentionally violating the laws of the Commonwealth relating to registration as a secondary metals recycler.
- (3) A secondary metals recycler's certificate of registration shall be conspicuously displayed at the location of the secondary metals recycler listed on the application for certificate of registration or at each location if the secondary metals recycler owns more than one (1) business location.
 - (4) The Office of Occupations and Professions of the Public Protection Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the provisions of this section.
 - (5) The Office of Occupations and Professions of the Public Protection Cabinet shall not be responsible for any disciplinary action against any secondary metals recycler seeking an application for certificate of registration.

➔SECTION 14. A NEW SECTION OF SUBTITLE 11 OF KRS CHAPTER 286 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "Registry" means the State Regulatory Registry, LLC, or its successor organization.*
- (2) *When an application, report, or approval request is required by this subtitle to be filed with the commissioner, the commissioner may by rule or order require the filing of the application, report, or approval request, including the applicable fees, be submitted to:*
 - (a) *The State Regulatory Registry, LLC, or its successor organization;*
 - (b) *The Registry's parent, affiliate, or operating subsidiary; or*
 - (c) *Other agencies or authorities, as part of a nationwide licensing system; which may act as an agent for receiving, requesting, and distributing information to and from any source directed by the commissioner.*
- (3) (a) *The commissioner is authorized to establish relationships or contracts with other governmental agencies, the Registry, or entities affiliated with the Registry that he or she deems necessary to carry out the purpose of this section.*
- (b) *The commissioner may report violations of this subtitle, enforcement actions, and other relevant information to governmental agencies, the Registry, or affiliated entities with which the commissioner has established a relationship or contract, notwithstanding any provision to the contrary in this subtitle.*
- (4) *For purposes of this section and to reduce the points of contact which the Federal Bureau of Investigation may have to maintain for purposes of this subtitle, the commissioner may use other governmental agencies,*

the Registry, or entities affiliated with the Registry, as an agent for requesting information from and distributing information to the United States Department of Justice or other governmental agencies.

Signed by Governor March 22, 2013.

CHAPTER 107

(SB 75)

AN ACT relating to school instructional days.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 158.070 is amended to read as follows:

- (1) The minimum school term shall be one hundred eighty-five (185) days, including no less than the equivalent of one hundred seventy-five (175) six (6) hour instructional days. A board of education may extend its term beyond the minimum term.
- (2) The local board of education, upon recommendation of the local school district superintendent, shall adopt a school calendar for the upcoming school year that establishes the opening and closing dates of the school term, beginning and ending dates of each school month, instructional days, and days on which schools shall be dismissed. The local board may schedule days for breaks in the school calendar that shall not be counted as a part of the minimum school term.
- (3) Any local board of education operating its schools on a year-round school program basis shall conform with administrative regulations promulgated and adopted by the Kentucky Board of Education upon the recommendation of the commissioner of education, which regulations must be in conformity with the following criteria:
 - (a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;
 - (b) A pupil's required attendance in school shall be for at least the minimum instructional term; and
 - (c) No teacher shall be required to teach more than the minimum term during the school year.
- (4)
 - (a) Each local board of education shall use four (4) days of the minimum school term for professional development and collegial planning activities for the professional staff without the presence of pupils pursuant to the requirements of KRS 156.095. At the discretion of the superintendent, one (1) day of professional development may be used for district-wide activities and for training that is mandated by federal or state law. The use of three (3) days shall be planned by each school council, except that the district is encouraged to provide technical assistance and leadership to school councils to maximize existing resources and to encourage shared planning.
 - (b) In addition to the four (4) days required under paragraph (a) of this subsection, a minimum of two (2) hours of self-study review of suicide prevention materials shall be required for all high school and middle school principals, guidance counselors, and teachers each school year.
 - (c) A local board may approve a school's flexible professional development plan that permits teachers or other certified personnel within a school to participate in professional development activities outside the days scheduled in the school calendar or the regularly scheduled hours in the school work day and receive credit towards the four (4) day professional development requirement within the minimum one hundred eighty-five (185) days that a teacher shall be employed.
 1. A flexible schedule option shall be reflected in the school's professional development component within the school improvement plan or consolidated plan and approved by the local board. Credit for approved professional development activities may be accumulated in periods of time other than full day segments.
 2. No teacher or administrator shall be permitted to count participation in a professional development activity under the flexible schedule option unless the activity is related to the teacher's classroom assignment and content area, or the administrator's job requirements, or is required by the school improvement or consolidated plan, or is tied to the teacher's or the

administrator's individual growth plan. The supervisor shall give prior approval and shall monitor compliance with the requirements of this paragraph. In the case of teachers, a professional development committee or the school council by council policy may be responsible for reviewing requests for approval.

- (d) The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays; provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday.
 - (e) Each local board may use two (2) days for planning activities without the presence of pupils.
 - (f) Each local board may use the number of days deemed necessary for:
 - 1. National or state disaster or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;
 - 2. Local disaster which would endanger the health or safety of children; and
 - 3. Mourning when so designated by the local board of education and approved by the Kentucky Board of Education upon recommendation of the commissioner of education.
- (5) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt administrative regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in subsection (4)(f)2. of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for professional development and planning activities for the professional staff.
- (6) (a) In setting the school calendar, school may be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings. These two (2) days for statewide professional meetings may be scheduled to begin with the first Thursday after Easter, or upon request of the statewide professional education association having the largest paid membership, the commissioner of education may designate alternate dates. If schools are scheduled to operate during days designated for the statewide professional meeting, the school district shall permit teachers who are delegates to attend as compensated professional leave time and shall employ substitute teachers in their absence. The commissioner of education shall designate one (1) additional day during the school year when schools shall be closed to permit professional school employees to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term. School shall be closed on the day of a regular election and on the day of a primary election, and those days may be used for professional development activities, professional meetings, or parent-teacher conferences.
- (b) All schools shall be closed on the third Monday of January in observance of the birthday of Martin Luther King, Jr. Districts may:
 - 1. Designate the day as one (1) of the four (4) holidays permitted under subsection (4)(d) of this section; or
 - 2. Not include the day in the minimum school term specified in subsection (1) of this section.
- (7) (a) The Kentucky Board of Education, or the organization or agency designated by the board to manage interscholastic athletics, shall be encouraged to schedule athletic competitions outside the regularly scheduled school day.
- (b) Beginning with the 2009-2010 school year, any member of a school-sponsored interscholastic athletic team who competes in a regional tournament or state tournament sanctioned by the Kentucky Board of Education, or the organization or agency designated by the board to manage interscholastic athletics, and occurring on a regularly scheduled school day may be counted present at school on the date or dates of the competition, as determined by local board policy, for a maximum of two (2) days per student per year. The student shall be expected to complete any assignments missed on the date or dates of the competition.
- (c) The school attendance record of any student for whom paragraph (b) of this subsection applies shall indicate that the student was in attendance on the date or dates of competition.
- (8) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.

- (9) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts and shall include criteria by which the commissioner of education may approve a district's request for a waiver to use an alternative service delivery option, including providing services during the school day on a limited basis. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. A school district that has a school operating a model early reading program under KRS 158.792 may use a portion of its grant money as part of the matching funds to provide individualized or small group reading instruction to qualified students outside of the regular classroom during the school day.
- (10) Notwithstanding any other statute, each school term shall include no less than the equivalent of the minimum number of instructional days required by this section, ***except that the commissioner of education may grant up to the equivalent of ten (10) instructional days for school districts that have missed an average of twenty (20) or more days in the previous three (3) years and use alternative methods of instruction, including virtual learning, on days when the school district is closed for health or safety reasons, on nontraditional days, or on nontraditional time. Average daily attendance for purposes of Support Education Excellence in Kentucky program funding during the instructional time granted shall be calculated in compliance with administrative regulations promulgated by the Kentucky Board of Education.***
- (11) Notwithstanding the provisions of KRS 158.060(3) and the provisions of subsection (1) of this section, a school district shall arrange bus schedules so that all buses arrive in sufficient time to provide breakfast prior to the instructional day. In the event of an unforeseen bus delay, the administrator of a school that participates in the Federal School Breakfast Program may authorize up to fifteen (15) minutes of the six (6) hour instructional day if necessary to provide the opportunity for children to eat breakfast not to exceed eight (8) times during the school year within a school building.
- (12) Notwithstanding any other statute to the contrary, the following provisions shall apply to a school district that misses school days due to emergencies, including weather-related emergencies:
- (a) A certified school employee shall be considered to have fulfilled the minimum one hundred eighty-five (185) day contract with a school district under KRS 157.350 and shall be given credit for the purpose of calculating service credit for retirement under KRS 161.500 for certified school personnel if:
1. State and local requirements under this section are met regarding the equivalent of the number and length of instructional days, professional development days, holidays, and days for planning activities without the presence of pupils; and
 2. The provisions of the district's school calendar to make up school days missed due to any emergency, as approved by the Kentucky Department of Education, including but not limited to a provision for additional instructional time per day, are met.
- (b) Additional time worked by a classified school employee shall be considered as equivalent time to be applied toward the employee's contract and calculation of service credit for classified employees under KRS 78.615 if:
1. The employee works for a school district with a school calendar approved by the Kentucky Department of Education that contains a provision that additional instructional time per day shall be used to make up full days missed due to an emergency;
 2. The employee's contract requires a minimum six (6) hour work day; and
 3. The employee's job responsibilities and work day are extended when the instructional time is extended for the purposes of making up time.
- (c) Classified employees who are regularly scheduled to work less than six (6) hours per day and who do not have additional work responsibilities as a result of lengthened instructional days shall be excluded from the provisions of this subsection. These employees may be assigned additional work responsibilities to make up service credit under KRS 78.615 that would be lost due to lengthened instructional days.

Signed by Governor March 22, 2013.

CHAPTER 108

(SB 96)

AN ACT relating to motor carriers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section "committee" means the Kentucky Motor Carrier Advisory Committee established under KRS 281.900.*
- (2) (a) *Before any motor carrier shall register a vehicle under the international registration plan with the Department of Vehicle Regulation, the carrier shall furnish evidence to the department that the carrier, within the preceding twelve (12) months, has completed an educational training course on motor carrier operations and safety regulations certified by the committee pursuant to this chapter.*
 - (b) *Before any intrastate motor carrier shall register a vehicle over twenty-six thousand (26,000) pounds, the carrier shall furnish evidence to the department that the carrier, within the preceding twelve (12) months, has completed an educational training course on motor carrier operations and safety regulations certified by the committee pursuant to this chapter.*
- (3) *The committee shall promulgate administrative regulations in accordance with KRS Chapter 13A to prescribe standards for the educational training courses on motor carrier operations and safety regulations required under this section.*
- (4) *The committee shall certify providers of educational training courses under this section. Providers may include an association whose members are motor carriers or an educational organization to conduct training on motor carrier operations and safety regulations established pursuant to this section. An entity designated as a provider under this subsection shall be duly qualified to transact business in Kentucky by appropriate filings in the office of Kentucky Secretary of State.*
- (5) *A provider of an educational training course under this section may establish a fee, not to exceed two hundred dollars (\$200), for the training course, to be paid by the motor carrier. A provider shall report the fee charged for their course to the committee.*
- (6) *The committee and the providers of the training courses under this section shall maintain files and records on the training. The entities conducting the training shall issue certificates of completion to motor carriers participating in the training. All files and records pertaining to the training shall be public records.*
- (7) *This section shall not apply to vehicles registered under KRS 186.050 (4),(5),(6),(8),(9),(10) or (11) and government vehicles registered under KRS 186.060.*

➔Section 2. KRS 281.905 is amended to read as follows:

- (1) The duties of the committee shall be:
 - (a) To advise the executive and legislative branches of government of the Commonwealth on issues regarding industrial expansion, promotion of motor carrier development, *safety training*, and improvement of motor carrier taxation and regulation methods; *and*
 - (b) *To coordinate and monitor educational training courses on motor carrier operations and safety regulation pursuant to Section 1 of this Act.*
- (2) The committee may request information and data from agencies of state government and may conduct studies to assist in the performance of its functions and duties.
- (3)~~(2)~~ The committee shall meet no less than quarterly during each calendar year, but may meet more frequently, if required. Meetings may be held at any place within the Commonwealth as determined by the committee. The Transportation Cabinet shall provide meeting facilities and administrative assistance and

support to the committee and the expense of operations of the committee shall be paid from the budget of the Department of Vehicle Regulation.

~~(4)~~~~(3)~~ The chairman of the committee shall be the secretary of the Transportation Cabinet, or his designee. The vice chairman shall be elected from the nine (9) appointed members of the committee. A majority of the membership of the committee shall constitute a quorum for the conduct of business.

~~(5)~~~~(4)~~ The meetings of the committee shall be public and the board shall file annual reports of its activities, findings, and recommendations with the office of the Secretary of State and the Legislative Research Commission. The reports shall be a matter of public record.

Signed by Governor March 22, 2013.

CHAPTER 109

(SB 107)

AN ACT relating to pharmacy benefit managers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 and 2 of this Act, unless the context requires otherwise:

- (1) *"Contracted pharmacy" or "pharmacy" means a pharmacy located in Kentucky participating in the network of a pharmacy benefit manager through a direct contract or through a contract with a pharmacy services administration organization or group purchasing organization;*
- (2) *"Drug product reimbursement" means the amount paid by a pharmacy benefit manager to a contracted pharmacy for the cost of the drug dispensed to a patient and does not include a dispensing or professional fee; and*
- (3) *"Pharmacy benefit manager" means an entity that contracts with pharmacies on behalf of a health benefit plan, state agency, insurer, managed care organization, or other third-party payor to provide pharmacy health benefit services or administration.*

➔SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *All contracts between a pharmacy benefit manager and a contracted pharmacy shall include:*
 - (a) *The sources used by the pharmacy benefit manager to calculate the drug product reimbursement paid for covered drugs available under the pharmacy health benefit plan administered by the pharmacy benefit manager;*
 - (b) *A process to appeal, investigate, and resolve disputes regarding the maximum allowable cost pricing. The process shall include the following provisions:*
 1. *The right to appeal shall be limited to sixty (60) days following the initial claim;*
 2. *The appeal shall be investigated and resolved within ten (10) days;*
 3. *If the appeal is denied, the pharmacy benefit manager shall provide the reason for the denial and identify the national drug code of a drug product that may be purchased by contracted pharmacies at a price at or below the maximum allowable cost; and*
 - (c) *Within one (1) year from the effective date of this Act, a process to provide for retroactive reimbursements.*
- (2) *For every drug for which the pharmacy benefit manager establishes a maximum allowable cost to determine the drug product reimbursement the pharmacy benefit manager shall:*

- (a) *Include in the contract with the pharmacy information identifying the national drug pricing compendia or sources used to obtain the drug price data;*
- (b) *Make available to a contracted pharmacy the drugs subject to maximum allowable cost and the actual maximum allowable cost for each drug;*
- (c) *Review and make necessary adjustments to the maximum allowable cost for every drug at least every fourteen (14) days; and*
- (d) *Make available to a contracted pharmacy weekly updates to the list of drugs subject to maximum allowable cost and the actual maximum allowable cost for each drug.*

Signed by Governor March 22, 2013.

CHAPTER 110

(SB 128)

AN ACT relating to veterans designations on operators' licenses and personal identification cards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 186.412 is amended to read as follows:

- (1) (a) A person who was under the age of eighteen (18) years at the time of application for an instruction permit and is eighteen (18) years of age or older may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least one hundred eighty (180) days and has completed a driver training program under KRS 186.410(4).
- (b) A person who has attained the age of eighteen (18) years and is under the age of twenty-one (21) at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least one hundred eighty (180) days.
- (c) A person who is at least twenty-one (21) years of age at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least thirty (30) days.
- (2) Except as provided in subsection (4) of this section, a person shall apply for an operator's license in the office of the circuit clerk of the county where the person lives. Except as provided in subsection (8)(b) and (c) of this section, the application form shall require the person's:
 - (a) Full legal name and signature;
 - (b) Date of birth;
 - (c) Social Security number, federal tax identification number, a letter from the Social Security Administration declining to issue a Social Security number, or a notarized affidavit from the applicant to the Transportation Cabinet swearing that the person either does not have a Social Security number, or refuses to divulge his or her Social Security number, based upon religious convictions;
 - (d) Sex;
 - (e) Present Kentucky resident address, exclusive of a post office box address alone;
 - (f) Other information necessary to permit the application of United States citizens to also serve as an application for voter registration;
 - (g) A brief physical description of the applicant;
 - (h) A statement if the person has previously been licensed as an operator in another state;
 - (i) Proof of the person's Kentucky residency, including but not limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement; and

- (j) Other information the cabinet may require by administrative regulation promulgated under KRS Chapter 13A.
- (3) A permanent resident shall present one (1) of the following documents issued by the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services:
- (a) An I-551 card with a photograph of the applicant; or
 - (b) A form with the photograph of the applicant or a passport with a photograph of the applicant on which the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services has stamped the following: "Processed for I-551. Temporary evidence of lawful admission for permanent residence. Valid until -----. Employment authorized."
- (4) If the person is not a United States citizen and has not been granted status as a permanent resident of the United States, the person's application for an original operator's license shall be submitted to either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.
- (a) The application form shall be accompanied by the person's documentation issued by the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services, authorizing the person to be in the United States and, if applicable, the person's international driving permit. The application form of a special status individual with a K-1 status shall be accompanied by an original or certified copy of the person's completed marriage license signed by the official who presided over the marriage ceremony and two (2) witnesses. The application form of a special status individual with a K-1 status shall also include the person's petition to enter the United States for the purpose of marriage that contains the name of the prospective spouse. If the name of the prospective spouse on the petition does not match the name of the spouse on the marriage license, the Transportation Cabinet shall not be required to issue an operator's license.
 - (b) The Transportation Cabinet shall, within fifteen (15) days of receipt of the application, review the person's documentation and determine if the person will be issued a Kentucky operator's license. If the review of an application will take longer than fifteen (15) days, the cabinet shall continue the review, but the cabinet shall be required to make a determination in all cases within thirty (30) days of receipt of the application.
 - (c) If the cabinet determines the person may be issued an operator's license, the cabinet shall issue the person an official form that the person shall take to the office of the circuit clerk of the county where the person resides. The circuit clerk shall review the person's documentation and the official form issued by the Transportation Cabinet. If the documentation is verified as accurate, and if the person successfully completes the examinations required under KRS 186.480, the circuit clerk shall issue the person a Kentucky operator's license.
 - (d) Except as provided in paragraphs (e) and (f) of this subsection, a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States shall apply to renew an operator's license, or obtain a duplicate operator's license, in the office of the circuit clerk in the county in which the person resides.
 - (e) If a person is renewing an operator's license or is applying for a duplicate license after July 15, 2002, and the person's documentation issued by the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services, has not been reviewed by either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office under the provisions of this subsection, the person shall be required to apply for the renewal or duplicate with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.
 - (f) If a person has any type of change in the person's immigration status, the person shall apply to renew an operator's license with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.
- (5) The circuit clerk shall issue an operator's license bearing a color photograph of the applicant and other information the cabinet may deem appropriate. The photograph shall be taken by the circuit clerk so that one (1) exposure will photograph the applicant and the application simultaneously. When taking the photograph, the applicant shall be prohibited from wearing sunglasses or any other attire that obscures any features of the applicant's face as determined by the clerk. The clerk shall require an applicant to remove sunglasses or other obscuring attire before taking the photograph required by this subsection. Any person who refuses to remove sunglasses or other attire prohibited by this section as directed by the clerk shall be prohibited from receiving

an operator's license. The operator's license issued by the cabinet shall not contain the applicant's Social Security number. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A that develop a numbering system that uses an identification system other than Social Security numbers. If an applicant does not have a Social Security number, or the applicant has submitted a notarized affidavit refusing to divulge his or her Social Security number based upon religious convictions, the Transportation Cabinet shall assign the applicant a unique identifying number. The license shall also designate by color coding and use the phrase "under 21" if the licensee is under the age of twenty-one (21); "CDL" if the license is issued pursuant to KRS Chapter 281A; or "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant to KRS Chapter 281A and is under the age of twenty-one (21).

- (6) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.
- (7)
 - (a) Except as provided in subsection (8) of this section, the circuit clerk shall issue a color photo personal identification card to any person who is a Kentucky resident and who resides in the county who complies with the provisions of this section and who applies in person in the office of the circuit clerk. An application for a personal identification card shall be accompanied by the same information as is required for an operator's license under subsection (2) of this section, except if a person does not have a fixed, permanent address, the person may use as proof of residency a signed letter from a homeless shelter, health care facility, or social service agency currently providing the person treatment or services and attesting that the person is a resident of Kentucky.
 - (b) It shall be permissible for the application form for a personal identification card to include as a person's most current resident address a mailing address, post office box, or an address provided on a voter registration card.
 - (c) Every applicant for a personal identification card shall make an oath to the circuit clerk as to the truthfulness of the statements contained on the application form. If the applicant is not the legal owner or possessor of the address provided on the application form, the applicant shall swear that he or she has permission from the legal owner, authorized agent for the legal owner or possessor to use the address for purposes of obtaining the personal identification card. The personal identification card shall designate by color coding and by use of the phrase "under 21" if the applicant is under the age of twenty-one (21).
 - (d) A personal identification card shall be valid for a period of four (4) years from the date of issuance, except that if the personal identification card is issued to a person who does not have a fixed, permanent address, then the personal identification card shall be valid for one (1) year from the date of issuance. Except as provided in this subsection, an initial or renewal personal identification card issued to a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States and who is not a special status individual, but who is a Kentucky resident, shall be valid for a period equal to the length of time the person's documentation from the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services is issued, or four (4) years, whichever time period is shorter. An initial or renewal personal identification card shall be valid for a period of two (2) years if the person is not a special status individual and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, is issued for an indefinite period of time and does not have an expiration date. The fee shall be the same as for a regular personal identification card.
 - (e) A personal identification card may be suspended or revoked if the person who was issued the card presents false or misleading information to the cabinet when applying for the card.
- (8)
 - (a) A person may be issued a personal identification card if the person currently holds a valid Kentucky instruction permit or operator's license. If a person's instruction permit or operator's license has been suspended or revoked, the person may be issued a temporary personal identification card. A temporary personal identification shall be renewed annually and may be surrendered when the person applies to have his or her instruction permit or operator's license reinstated.
 - (b) Upon receipt of proper documentation provided by the Department of Corrections, the circuit clerk of the county in which a released felony offender resides shall issue to any felony offender, if the felony offender is eligible, released from the Department of Corrections on home incarceration, parole, completed service of sentence, shock probation, or pardon, a personal identification card or, if the felony offender is eligible, an operator's license. Proper documentation under this paragraph shall consist of:

1. The offender's certificate of birth;
2. A copy of the offender's resident record card and parole certificate or notice of discharge;
3. A photograph of the offender, printed on plastic card or paper; and
4. A release letter that shall contain the offender's:
 - a. Full legal name, subject to the information available to the Department of Corrections;
 - b. Discharge/release date;
 - c. Signature;
 - d. Social Security number;
 - e. Date of birth;
 - f. Present Kentucky address where he or she resides; and
 - g. Physical description.

The offender shall present this documentation to the circuit clerk within thirty (30) calendar days from the date of the release letter and shall be responsible for paying the fee for the personal identification card or operator's license pursuant to KRS 186.531. The provisions of this paragraph shall apply only to persons released on or after July 15, 2010.

- (c) Upon receipt of proper documentation provided by the Department of Corrections, the circuit clerk of the county in which a felony offender resides shall issue to any felony offender, if the felony offender is eligible, probated or conditionally discharged by the court and under the supervision of the Division of Probation and Parole, a personal identification card or, if the felony offender is eligible, an operator's license. Proper documentation under this paragraph shall consist of:

1. The offender's certificate of birth;
2. The offender's sentencing order;
3. A photograph of the offender, printed on plastic card or paper; and
4. A notarized release letter, signed by the supervising officer verifying the offender's status on supervision, that shall contain the offender's:
 - a. Full legal name, subject to the information available to the Division of Probation and Parole;
 - b. Signature;
 - c. Social Security number;
 - d. Date of birth;
 - e. Present Kentucky address where he or she resides; and
 - f. Physical description.

The offender shall present this documentation to the circuit clerk within thirty (30) calendar days from the date of the notarized release letter. The offender shall be responsible for paying the fee for the personal identification card or operator's license pursuant to KRS 186.531. The provisions of this paragraph shall apply only to persons released on or after July 15, 2010.

- (9) The Transportation Cabinet shall implement a voluntary statewide child identification program. The program shall issue a color photo personal identification card to a child two (2) to fifteen (15) years of age. Application for a child identification card shall be accompanied by a Social Security card and a birth certificate for the child or other proof of the child's date of birth as provided under subsection (2) of this section. The card shall contain the child's name and the toll-free number of the Kentucky Missing Persons Clearinghouse, Department of Kentucky State Police. The card shall not contain the child's Social Security number. The cabinet shall set a four dollar (\$4) fee for the child identification card. Two dollars (\$2) of the fee shall be used to cover the cabinet's cost for equipment and supplies. Two dollars (\$2) of the fee shall be an administrative fee of the circuit clerk for issuing the card which shall be deposited by the Administrative Office of the Courts into a trust and agency account for the circuit clerks and used for the purposes of hiring additional deputy clerks and providing salary adjustments to deputy clerks. The card shall expire every four (4) years on the child's

birthday. Within the time period that the child identification card is valid, the card may be updated with a new photograph and information. The fee for an updated card shall be four dollars (\$4), with two dollars (\$2) of the fee going to the cabinet and two dollars (\$2) going to the Administrative Office of the Courts in the same manner as the fee for an initial card as described in this subsection. The descriptive data and a photo image of the child shall be stored in the Kentucky Driver's License Information System and may be retrieved and used by public agencies subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. sec. 2721, and may also be used by the Kentucky Missing Persons Clearinghouse.

- (10) If a citizen of the Commonwealth currently serving in the United States military is stationed or assigned to a base or other location outside the boundaries of the Commonwealth, the citizen may renew a Class D operator's license issued under this section by mail. If the citizen was issued an "under 21" operator's license, upon the date of his or her twenty-first birthday, the "under 21" operator's license may be renewed for an operator's license that no longer contains the outdated reference to being "under 21."
- (11) A citizen of the Commonwealth renewing an operator's license by mail under subsection (10) of this section may have a personal designee apply to the circuit clerk on behalf of the citizen to renew the citizen's operator's license. An operator's license being renewed by mail under subsection (10) of this section shall be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo and signature."
- (12)
 - (a) If a citizen of the Commonwealth has been serving in the United States military stationed or assigned to a base or other location outside the boundaries of the Commonwealth and has allowed his or her operator's license to expire, he or she shall, within ninety (90) days of returning to the Commonwealth, be permitted to renew his or her license without having to take a written test or road test.
 - (b) A citizen who meets the criteria in paragraph (a) of this subsection shall not be convicted or cited for driving on an expired license prior to license renewal during the ninety (90) days after the person's return to the Commonwealth if the person can provide proof of his or her out-of-state service and dates of assignment.
 - (c) A citizen who meets the criteria in paragraph (a) of this subsection and who does not renew his or her license within ninety (90) days of returning to the Commonwealth shall be required to comply with the provisions of this chapter governing renewal of a license that has expired.
 - (d) If a citizen of the Commonwealth has been issued an "under 21" or "under 21 CDL" operator's license and the person is unable to renew the license on the date of his twenty-first birthday, the "under 21" or "under 21 CDL" operator's license shall be valid for ninety (90) days beyond the date of the person's twenty-first birthday.
- (13) The cabinet shall provide on each license to operate motor vehicles, motorcycles, and mopeds a space for the licensed driver's:
 - (a) Blood type;
 - (b) Medical insignia if the person provides evidence that a medical identification bracelet noting specific physical ailments or a drug allergy is being worn or other proof as may be required by the cabinet; and
 - (c) A statement whereby the owner of the license may certify in the presence of two (2) witnesses his willingness to make an anatomical gift under KRS 311.1917.
- (14) If the motor vehicle operator denotes a physical ailment or drug allergy on the operator's license, he may apply for and shall receive, for a fee of two dollars (\$2) paid to the circuit clerk, two (2) medical insignia decals that may be affixed to the driver's side of the front windshield of a motor vehicle and to the driver's side of the rear window of a motor vehicle.
- (15) An operator's license pursuant to this section shall be designated a Class D license.
- (16) A person shall not have more than one (1) license.
- (17) Upon marriage, a woman applying for an operator's license or a color photo personal identification card shall provide the circuit clerk with her marriage license and complete an affidavit form provided by the circuit court clerk. She shall have the following choices in regard to her full legal name as required in subsections (2) and (7) of this section:
 - (a) Use her husband's last name;
 - (b) Retain her maiden name;

- (c) Use her maiden name hyphenated with her husband's last name;
 - (d) Use her maiden name as a middle name and her husband's last name as her last name; or
 - (e) In the case of a previous marriage, retain that husband's last name.
- (18) Upon issuing an operator's license or personal identification card, the clerk shall draw the recipient's attention to the location on the license relating to anatomical gifts under subsection (13)(c) of this section and offer to allow personnel in the clerk's office to serve as the witnesses to the recipient's certification of willingness to make an anatomical gift if the recipient is the person to whom the license is issued.
- (19) Any person who served in the active Armed Forces of the United States, including the Coast Guard of the United States, and was released, separated, discharged, or retired therefrom under conditions other than dishonorable, may, at the time of initial application or application for renewal or duplicate, request that an operator's license or a personal identification card issued under this section bear the word "veteran" on the face or the back of the license or personal identification card. The designation shall be in a style and format considered appropriate by the Transportation Cabinet. Prior to obtaining a designation requested under this subsection, the applicant shall present the circuit clerk with an original or copy of his or her DD-214 *or* DD-2 form as proof of veteran status. The circuit clerk shall not be liable for fraudulent or misread DD-214 *or* DD-2 forms presented.

Signed by Governor March 22, 2013.

CHAPTER 111

(HB 279)

AN ACT relating to construction of the law.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 446 IS CREATED TO READ AS FOLLOWS:

Government shall not substantially burden a person's freedom of religion. The right to act or refuse to act in a manner motivated by a sincerely held religious belief may not be substantially burdened unless the government proves by clear and convincing evidence that it has a compelling governmental interest in infringing the specific act or refusal to act and has used the least restrictive means to further that interest. A "burden" shall include indirect burdens such as withholding benefits, assessing penalties, or an exclusion from programs or access to facilities.

Overridden and reenacted 3/26/2013

CHAPTER 112

(HB 27)

AN ACT relating to the local government economic development fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. (1) Notwithstanding KRS 42.4588(2) and (4), and the specific appropriations for identified projects made in 2012 Ky. Acts ch. 144, sec. 1, Part II Capital Projects Budget, M. Coal Severance Tax Projects, a coal-producing county that experiences a shortfall in fiscal year 2012-2013 of 25 percent or greater in anticipated and budgeted distributions from the Local Government Economic Assistance Fund established by KRS 42.450, may, during fiscal year 2013-2014, petition the Department for Local Government in writing to request a reallocation of funds to the individual county's Local Government Economic Assistance Fund distribution as provided in this section.

(2) Upon receipt of a written request for a reallocation of funds as provided in subsection (1) of this section, the Department for Local Government shall verify that the requesting coal-producing county experienced a shortfall in fiscal year 2012-2013 of 25 percent or greater from the amount anticipated and budgeted by the coal-producing county. If the shortfall is verified, the Department for Local Government shall:

(a) Approve the reallocation of funds from the individual county account of the requesting county under KRS 42.4592(1)(a) or (b);

(b) Authorize the reallocation of funds specifically appropriated for identified projects in the county by 2012 Ky. Acts ch. 144, sec. 1, Part II Capital Projects Budget, M. Coal Severance Tax Projects; or

(c) Approve a reallocation under both paragraphs (a) and (b) of this subsection.

Amounts reallocated shall be distributed to requesting county as part of the county's individual distribution from the Local Government Economic Assistance Fund, to be used for the purposes set forth in KRS 42.455.

(3) Any approval under this section shall:

(a) Not exceed the amount of the demonstrated budget shortfall;

(b) Be made in writing, and

(c) Be reported to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue within 30 days of the approval being made.

Signed by Governor April 4, 2013.

CHAPTER 113

(HB 51)

AN ACT relating to disaster relief funding.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 273.161 is amended to read as follows:

As used in KRS 273.163 to 273.387, unless the context otherwise requires, the term:

(1) "Corporation" or "domestic corporation" means a nonprofit corporation subject to the provisions of KRS 273.163 to 273.387, except a foreign corporation;

(2) ***"Disaster" means any natural, technological, or civil emergency that causes damage of sufficient severity and magnitude to result in a declaration of a state of emergency by a county, the Governor, or the President of the United States.***

~~(3)~~~~(2)~~ "Foreign corporation" means a nonprofit corporation organized under laws other than the laws of this state;

~~(4)~~~~(3)~~ "Nonprofit corporation" means a corporation no part of the income or profit of which is distributable to its members, directors or officers;

~~(5)~~~~(4)~~ "Articles of incorporation" means the original or restated articles of incorporation or articles of consolidation and all amendments thereto, including articles of merger;

~~(6)~~~~(5)~~ "Bylaws" means the code or codes of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated;

~~(7)~~~~(6)~~ "Member" means one having membership rights in a corporation in accordance with the provisions of its articles of incorporation or bylaws;

~~(8)~~~~(7)~~ "Board of directors" means the group of persons vested with the management of the affairs of the corporation irrespective of the name by which group is designated;

~~(9)~~~~(8)~~ "Insolvent" means inability of a corporation to pay its debts as they become due in the usual course of its affairs;

- ~~(10)~~~~(9)~~ "Principal office" means the office, in or out of this state, so designated in the annual report where the principal executive offices of a domestic or foreign corporation are located;
- ~~(11)~~~~(10)~~ "Secretary" means the corporate officer to whom the board of directors has delegated responsibility for custody of the minutes of the meetings of the board of directors and the members and for authenticating records of the corporation;
- ~~(12)~~~~(11)~~ "Individual" includes the estate of an incompetent or deceased individual;
- ~~(13)~~~~(12)~~ "Entity" includes a domestic or foreign corporation; not-for-profit corporation; profit and not-for-profit unincorporated association; business or statutory trust, estate, partnership, limited partnership, limited liability company, trust, and two (2) or more persons having a joint or common economic interest; and state, United States, and foreign government;
- ~~(14)~~~~(13)~~ "Person" includes individual and entity.
- ~~(15)~~~~(14)~~ "Name of record with the Secretary of State" means any real, fictitious, reserved, registered, or assumed name of an entity; and
- ~~(16)~~~~(15)~~ "Real name" shall have the meaning set forth in KRS 365.015.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *Any entity organized for charitable purposes under Section 501(c)(3) of the Internal Revenue Code, other than a religious organization that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code, that solicits and receives contributions exceeding twenty-five thousand dollars (\$25,000) for a charitable purpose related to a disaster in Kentucky shall file quarterly financial reports with the Secretary of State until the funds are expended. The quarterly reports shall be in a form and format determined by the Secretary of State and shall contain at a minimum the following:*
1. *The amount of money received as a result of the solicitation at the time that the report is filed;*
 2. *Where the funds collected as a result of the solicitation are spent; and*
 3. *The amount of funds collected that are used for administrative costs.*
- (b) *The first quarterly report shall be filed no later than the last day of the third month following the commencement of solicitations.*
- (2) *Any entity organized for charitable purposes under Section 501(c)(3) of the Internal Revenue Code, other than a religious organization that is recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code, which solicited and received contributions exceeding twenty-five thousand dollars (\$25,000) for a charitable purpose related to a disaster in Kentucky between January 1, 2012, and the effective date of this Act shall file a financial report with the Secretary of State. The financial report shall be in a form and format determined by the Secretary of State and shall contain at a minimum the following:*
- (a) *The amount of money received as a result of the solicitation;*
 - (b) *Where the funds collected as a result of the solicitation were spent; and*
 - (c) *The amount of the funds collected that was used for administrative costs.*

➔Section 3. KRS 68.200 is amended to read as follows:

- (1) As used in this section, unless the context clearly indicates otherwise:
- (a) Motor vehicle means "vehicle" as defined in KRS 186.010(8)(a);
 - (b) Retailer means "retailer" as defined in KRS 139.010; and
 - (c) Gross rental charge means "gross rental charge" as defined in KRS 138.462(4).
- (2) A county containing a city of the first, second, or third class or urban-county government may levy a license fee on the rental of motor vehicles which shall not exceed three percent (3%) of the gross rental charges from rental agreements for periods of thirty (30) days or less. The license fee shall apply to retailers who receive more than seventy-five percent (75%) of their gross revenues generated in the county from gross rental charges. Any license fee levied pursuant to this subsection shall be collected by the retailer from the renters of the motor vehicles.

- (3) Revenues from rental of motor vehicles shall not be included in the gross rental charges on which the license fee is based if:
- (a) The declared gross weight of the motor vehicle exceeds eleven thousand (11,000) pounds; or
 - (b) The rental is part of the services provided by a funeral director for a funeral; or
 - (c) The rental is exempted from the state sales and use tax pursuant to KRS 139.470.
- (4) A fiscal court or the legislative body of an urban-county government shall provide for collection of the license fee in the ordinance by which the license fee is levied. The revenues shall be deposited in an account to be known as the motor vehicle license fee account. The revenues may be shared among local governments pursuant to KRS 65.245.
- (5) The county shall use the proceeds of the license fee for economic development activities. It shall distribute semiannually, by June 30 and December 31, all revenues not shared pursuant to KRS 65.245, to one (1) or more of the following entities if it has established, or contracted with, the entity for the purposes of economic development and is satisfied that the entity is promoting satisfactorily the county's economic development activities:
- (a) A riverport authority established by the county pursuant to KRS 65.520; or
 - (b) An industrial development authority established by the county pursuant to KRS 154.50-316; or
 - (c) A nonprofit corporation as defined in KRS 273.161(4)~~(3)~~ which has been organized for the purpose of promoting economic development.

The entity shall make a written request for funds from the motor vehicle license fee account by May 31 and November 30, respectively.

Signed by Governor April 4, 2013.

CHAPTER 114

(HB 149)

AN ACT relating to the veterans' program trust fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 40.310 is amended to read as follows:

- (1) The Department of Veterans' Affairs shall collect all necessary data and information regarding facilities and services available to veterans, their families, and dependents, and shall cooperate with all information or service agencies throughout the state in informing such persons regarding the existence or availability of all educational, training, and retraining facilities; health, medical, rehabilitation, and housing services and facilities; employment and reemployment services; provisions of federal, state, and local laws affording rights, privileges, and benefits to said persons, their families, and dependents, and all other matters of similar related or appropriate nature. It shall likewise be the duty of the department to assist veterans and their families and dependents in the presentation, proof, and establishment of all claims, privileges, rights, and other benefits which they may have under federal, state, or local laws, and to cooperate with all national, state, and local government and private agencies securing services or any benefits to veterans, their families, and dependents.
- (2) The commissioner of the Department of Veterans' Affairs shall prepare and submit to the Governor and each member of the board an annual report with reference to claims presented on behalf of veterans and to otherwise report the activities and accomplishments of the department.
- (3) The Department of Veterans' Affairs shall be authorized to apply for and accept gifts, grants, and other contributions from the federal government, or from any other governmental unit which funds shall be administered by the department through use of trust and agency accounts.
- (4) Veterans, as used in KRS 40.305 to 40.310 include any individual who served on active duty during peace or war in the Armed Forces of the United States, and who has received an honorable discharge from such service.

- (5) The Department of Veterans' Affairs shall maintain full, adequate, and complete copies of all records pertaining to claims of veterans who file said claims for benefits through the department.
- (6) The commissioner of the Department of Veterans' Affairs may purchase liability insurance for the protection of employees of the Department of Veterans' Affairs to protect them from liability for acts, omissions, and claims arising in the course and scope of their employment or service to the department.
- (7) ***The Department of Veterans' Affairs shall manage the veterans' program trust fund, established by KRS 40.460, by hosting all board meetings, providing logistical support, recording the minutes of each meeting, and authorizing expenditures once the board has approved a request for funds.***

➔Section 2. KRS 40.353 is amended to read as follows:

- (1) The Kentucky Medal for Freedom is hereby created to be awarded by the Kentucky Department of Veterans' Affairs to an individual who has been killed in action on or after January 1, 1991, while:
 - (a) Engaged in an action against an enemy of the United States;
 - (b) Engaged in military operations involving conflict with an opposing foreign force;
 - (c) Serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party; or
 - (d) Serving in a combat zone as designated by presidential order.
- (2) Individuals eligible to receive the Kentucky Medal for Freedom include:
 - (a) Members of the Kentucky National Guard or a Reserve Component stationed in Kentucky;
 - (b) Members of a state National Guard or a Reserve Component who named Kentucky as a home of record;~~and~~
 - (c) Members of the regular United States Armed Forces who named Kentucky as a home of record; ***and***
 - (d) ***Members of the regular United States Armed Forces, a state National Guard, or a Reserve Component who were buried in Kentucky on or after July 15, 2008, and have a surviving spouse, parent, or next available family member who is a Kentucky resident.***
- (3) The department shall enter the name of a recipient of the Kentucky Medal for Freedom on the Kentucky Medal for Freedom roll.
- (4) The department shall promulgate administrative regulations in accordance with KRS Chapter 13A to carry out the provisions of this section.
- (5) ***The department may receive funds from the veterans' program trust fund to defray the cost of the Kentucky Medal for Freedom.***

Signed by Governor April 4, 2013.

CHAPTER 115

(HB 177)

AN ACT relating to misrepresenting military status.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 434.444 is amended to read as follows:

- (1) A person is guilty of misrepresenting current or former military status when he or she, ***for the purpose of direct or indirect monetary gain, and*** with intent to defraud, obtain employment, or be elected or appointed to public office, intentionally makes:
 - (a) A claim, orally, in writing, or by any fraudulent display, that he or she is entitled to wear military awards, military decorations, or military rank;

- (b) A claim that he or she served in the United States Armed Forces, a Reserve Component thereof, or the National Guard; or
 - (c) A claim that he or she served in the military during a wartime era, whether or not there was a declared war, or served in a combat zone, or makes any misrepresentation of actual military service.
- (2) This section shall not apply to a person who or an organization which:
- (a) Is reenacting military history or a military event;
 - (b) Is playing the part of a member of the Armed Forces of the United States, a Reserve Component thereof, or the National Guard in a play, motion picture television production, or other dramatic production, or at a patriotic or civic event;
 - (c) Is a member of the Armed Forces of the United States, a Reserve Component thereof, or the National Guard and, as part of a military assignment, is representing a member of the Armed Forces in a previous war or time period for ceremonial, recruiting, or training purposes;
 - (d) Is an employee of or volunteer for a museum and, as a part of their duties, is representing a member of the Armed Forces of the United States, a Reserve Component thereof, or the National Guard for ceremonial, historical, or training purposes;
 - (e) Owns, displays, purchases, sells, or trades militaria, including but not limited to medals, ribbons, and rank insignia, and does not claim to have personally earned them unless he or she is legally entitled to do so;
 - (f) Is a natural person using his or her given name that includes a military rank, so long as he or she does not use the name to defraud another in a manner prohibited by this section;
 - (g) Uses a name or honorary military or military-like rank which has been bestowed upon him or her by a public officer, public employee, or public agency, in the name of a public officer or public agency;
 - (h) Uses a corporate, partnership, sole proprietorship, or other name for a business or product which includes a military rank, so long as the name is not used to defraud another in a manner prohibited by this section; or
 - (i) Holds a registered trademark which includes a military rank or honorary rank, so long as the trademark is not used to defraud another in a manner prohibited by this section.
- (3) Misrepresenting current or former military status is:
- (a) A violation of KRS 514.040 if the defendant, by the misrepresentation, obtains money or property; and
 - (b) If the defendant, by the misrepresentation, obtains a public benefit, a violation of the applicable statute that prohibits obtaining that public benefit and provides a specific penalty.
- (4) If a violation of subsection (3) of this section is not involved, the defendant shall be fined an amount not to exceed five thousand dollars (\$5,000) or be imprisoned in the county jail for not more than twelve (12) months, or both.
- (5) KRS 431.100 to the contrary notwithstanding, any fine assessed as a penalty for conviction under this section shall be transferred by the circuit clerk and deposited with the veterans program trust fund established by KRS 40.460(2)(b).
- (6) This section shall be cited as the Kentucky Stolen Valor Act.

Signed by Governor April 4, 2013.

CHAPTER 116

(HB 212)

AN ACT relating to clean and alternative transportation fuels.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

As used in this section and Section 2 of this Act:

- (1) *"Bi-fuel system" means the power system of motor vehicles that are powered by gasoline and either CNG or LNG;*
- (2) *"Cabinet" means the Transportation Cabinet;*
- (3) *"Clean transportation fuel" means:*
 - (a) *Propane, CNG, LNG, bi-fuel systems, or electricity when they are used as motor vehicle fuel; or*
 - (b) *Other transportation fuels determined by the division to be comparable with respect to emissions;*
- (4) *"Compressed natural gas" or "CNG" means pipeline quality natural gas that is compressed and provided for sale or use as a motor vehicle fuel;*
- (5) *"Conversion" means:*
 - (a) *Repowering a motor vehicle or special mobile equipment by replacing its original gasoline or diesel powered engine with one capable of operating on clean transportation fuel; or*
 - (b) *Retrofitting a motor vehicle or special mobile equipment with parts that enable its original gasoline or diesel powered engine to operate on clean transportation fuel;*
- (6) *"Division" means the Division for Air Quality within the Energy and Environment Cabinet;*
- (7) *"Liquefied natural gas," "liquid natural gas," or "LNG" means pipeline-quality natural gas treated to remove water, hydrogen sulfide, carbon dioxide, and other components that will freeze and condensed into liquid form for sale or use as a motor vehicle fuel;*
- (8) *"Liquefied petroleum gas," "propane," or "LPG" means a hydrocarbon mixture produced as a by-product of natural gas processing and petroleum refining and condensed into liquid form for sale or use as a motor fuel;*
- (9) *"Motor vehicle" means a self-propelled device by which a person or property may be transported upon a public highway, except a device moved by human or animal power or used exclusively upon stationary rails or tracks, or which derives its power from overhead wires; and*
- (10) *"Special mobile equipment" means a motor vehicle or mobile equipment not designed or used primarily to transport people, including but not limited to construction or maintenance equipment.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

- (1) *The owner of a motor vehicle that has been converted after January 1, 2013, to operate on either CNG or LNG alone or in a bi-fuel system shall have the motor vehicle inspected to ascertain compliance with relevant federal safety standards covering the use of these fuels. The safety inspection shall occur:*
 - (a) *At the time of the conversion;*
 - (b) *Every three (3) years or thirty-six thousand (36,000) miles after the conversion, whichever occurs first; and*
 - (c) *Following any collision in which any vehicle involved is traveling at five (5) miles per hour or greater.*
- (2) *The owner of a motor vehicle originally designed and manufactured to use compressed or liquid natural gas as a fuel shall have it inspected for safety following any collision in which any vehicle involved is traveling at five (5) miles per hour or greater.*
- (3) *A person who performs the conversion of a motor vehicle to operate on either CNG or LNG alone or in a bi-fuel system shall certify to the owner of the motor vehicle and the cabinet that the conversion does not tamper with, circumvent, or otherwise affect any existing motor vehicle emissions or diagnostic systems, except as necessary to complete the conversion.*
- (4) *The cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A to carry out the provisions of this section to:*
 - (a) *Qualify persons to perform safety inspections on converted motor vehicles;*

- (b) *Modify or adopt for state use any federal safety standards, if necessary; and*
 - (c) *Identify motor vehicles that have been converted to operate on clean transportation fuels and ensure compliance with the safety, emissions, and efficiency requirements of this section and applicable administrative regulations.*
- (5) *In promulgating administrative regulations, the cabinet shall consider:*
- (a) *Directing that inspections use equipment which is widely available in the state; and*
 - (b) *Creating a regulatory framework that encourages the conversion and sale of motor vehicles that operate on CNG, LNG, or a bi-fuel system.*

➔Section 3. KRS 152.715 is amended to read as follows:

As used in KRS 152.710 to 152.720, unless the context requires otherwise:

- (1) "Alternative transportation fuels" means:
- (a) Before August 1, 2010, crude oil or transportation fuels produced by processes that:
 1. Convert coal, waste coal, or biomass resources; or
 2. Extract oil from oil shale or tar sands;
 to produce crude oil or fuels for powering vehicles, aircraft, and machinery; and
 - (b) On or after August 1, 2010:
 1. Crude oil or transportation fuels produced by processes that:
 - a. Convert coal, waste coal, or biomass resources; or
 - b. Extract oil from oil shale or tar sands;
 to produce crude oil or fuels for powering vehicles, aircraft, and machinery;
 2. Liquefied *or compressed natural gas produced for use as a transportation fuel* ~~produced from natural gas~~; or
 3. Liquefied petroleum gas produced from natural gas, ~~or~~ natural gas liquids, *or petroleum for use as a transportation fuel.*

"Alternative transportation fuels" may include but are not limited to *natural gas*, petroleum, jet fuel, gasoline, diesel fuel, hydrogen derived from coal, and diesel fuel and ethanol derived from biomass;

- (2) "Synthetic natural gas" means pipeline quality or industrial quality natural gas produced from coal through gasification processes;
- (3) "Fossil energy resources" means reserves of coal, oil shale, and natural gas; and
- (4) "Biomass resources" means any organic matter that is available on a renewable or recurring basis, including agricultural crops and trees; wood and wood residues; plants, aquatic plants, and plant oils; grasses; animal fats and animal by-products; animal manure; residue materials; and waste products.

➔Section 4. KRS 152.720 is amended to read as follows:

To ensure that Kentucky will lead the states in securing the energy independence of the United States and will consequently benefit from economic growth and stabilization of the Commonwealth's coal industry and agriculture, the Department for Energy Development and Independence shall develop and implement a strategy for production of alternative *transportation* fuels and synthetic natural gas from fossil energy resources and biomass resources. The strategy shall address:

- (1) Technologies available or in use for producing alternative *transportation* fuels and synthetic natural gas from fossil energy resources and biomass resources and the relative advantages of these in terms of process efficiencies, environmental performance, and marketable products, including chemicals, industrial feedstocks, and electricity;
- (2) Research, demonstration, and commercial-scale construction and operation of one (1) or more technologies, and follow-up expansion;

- (3) The essential nature of efficient cooperation, coordination, and synergy between the efforts of the Department for Energy Development and Independence and those of Kentucky's *public and private colleges and universities* in order to maximize Kentucky's opportunities to access federal funds and to receive research grants and awards from federal and other sources to fund the development of clean coal technology, coal-to-liquid-fuel conversion, synthetic natural gas, alternative transportation fuels, and biomass resources;
- (4) The identification of federal funds available for research, development, construction, and operation of alternative *transportation* fuels or synthetic natural gas plants at laboratory, demonstration, and commercial scale;
- (5) Establishment of a major federal energy research laboratory in Kentucky;
- (6) Industry participation, both by single firms and by consortia, in research, development, construction, and operation of alternative transportation fuels or synthetic natural gas plants;
- (7) Establishment or expansion of Kentucky state government incentives for development, construction, or operation of alternative transportation fuels and synthetic natural gas production facilities, including but not limited to financial incentives, tax incentives, mandating or providing incentives for use of alternative transportation fuels and synthetic natural gas by state government, school districts, or utilities, authority to issue bonds, and acquisition and preliminary environmental assessment of industrial sites; and
- (8) Development of incentives to encourage energy conservation and renewable fuel and energy use and deployment of renewable energy, including solar power, wind power, hydropower, and other sources.

➔Section 5. KRS 154.20-400 is amended to read as follows:

As used in KRS 154.20-400 to 154.20-420:

- (1) "Alternative fuels" means:
 - (a) Alternative transportation fuels as defined in KRS 152.715;
 - (b) Synthetic natural gas as defined in KRS 152.715;
 - (c) Biodiesel produced from biomass resources as defined in KRS 152.715 that is used for purposes other than transportation fuel;
 - (d) Ethanol as defined in KRS 141.422;
 - (e) Cellulosic ethanol as defined in KRS 141.422; and
 - (f) Any other fuel that is produced from a renewable or sustainable source;
- (2) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, person, group, *city, county, charter county, consolidated local government, urban-county government, or unified local government entity*, or other entity engaged in research and development and commercialization related to, or the production of, alternative fuels or renewable energy;
- (3) "Kentucky-based" means a business with its principal place of business in Kentucky or at least fifty-one percent (51%) of its property and payroll located in Kentucky;
- (4) "Qualified company" means an eligible company that may be granted funding pending final approval;
- (5) "Renewable energy" means electricity produced by hydropower, solar power, landfill methane gas, wind power, geothermal, biomass, or other renewable sources; and
- (6) "Science and technology organization" means an independent, nonprofit quasi-governmental organization with a statewide mission and demonstrated history of managing complicated programs in the areas of entrepreneurial innovation, research and development, and science and technology advancement.

➔Section 6. KRS 154.20-410 is amended to read as follows:

- (1) There is created in the State Treasury the "Kentucky alternative fuel and renewable energy fund" for the purpose of enabling Kentucky-based companies to undertake research and development and commercialization in the area of alternative ~~fuels~~ *fuels* or renewable energy.
- (2) The fund may receive state appropriations, gifts, grants, federal funds, revolving funds, and any other funds both public and private. Moneys deposited in the fund shall be disbursed by the State Treasurer upon the warrant of the secretary of the Finance and Administration Cabinet. Any unallocated or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9).

- (3) *Notwithstanding KRS 45.229*, any income earned from the investments along with the unallotted or unencumbered balances in the fund shall not lapse, and shall be deemed a trust and agency account and made available solely for the purposes and benefits of the Kentucky Alternative Fuel and Renewable Energy Fund Program.

➔Section 7. KRS 154.20-415 is amended to read as follows:

- (1) There is created in the cabinet a Kentucky Alternative Fuel and Renewable Energy Fund Program to provide funding to Kentucky-based companies to undertake research and development and commercialization work in the area of alternative fuels and renewable energy.
- (2) The purpose of the ~~[Kentucky Alternative Fuel and Renewable Energy Fund]~~ program is to:
- (a) Accelerate knowledge transfer and technological innovation, improve economic competitiveness, and spur economic growth of Kentucky-based companies involved in the areas of alternative fuels or renewable energy;
 - (b) Support research and development activities that have clear potential to lead to commercially successful products, processes, or services in the areas of alternative fuels or renewable energy within a reasonable period of time;
 - (c) Stimulate growth-oriented alternative ~~fuels~~~~[fuel]~~ and renewable energy enterprises within the Commonwealth;
 - (d) Encourage partnerships and collaborative projects between private enterprises, Kentucky's *public and private colleges and* universities, and research organizations in alternative fuels and renewable energy; and
 - (e) Promote research and development and commercialization activities in alternative fuels and renewable energy that are market-oriented.

➔Section 8. KRS 45A.625 is repealed, reenacted, and amended to read as follows:

- (1) The Finance and Administration Cabinet shall develop a strategy to:
- (a) Replace at least fifty percent (50%) of the state-owned passenger vehicles and light-duty trucks managed by the Division of Fleet Management as of January 1, ~~2014~~~~[2008]~~, with:
 1. New qualified hybrid motor vehicles as defined in 26 U.S.C. sec. 30B;
 2. New advanced lean burn technology motor vehicles as defined in 26 U.S.C. sec. 30B;
 3. New qualified fuel cell motor vehicles as defined in 26 U.S.C. sec. 30B; or
 4. New qualified alternative fuel motor vehicles as defined in 26 U.S.C. sec. 30B; and
 - (b) Increase the use of ethanol, *cellulosic ethanol*, biodiesel, and other alternative transportation fuels as defined in KRS 152.715 to reduce state government's dependence on petroleum-based transportation fuels, where possible.
- (2) On or before December 1, ~~2013~~~~[2007]~~, and every December 1 thereafter, the ~~[Finance and Administration]~~ cabinet shall report to the Legislative Research Commission:
- (a) The strategy for transitioning to motor vehicles outlined in subsection (1) of this section, including a life-cycle cost comparison, and a projected timetable to replace motor vehicles in the state motor pool as provided in subsection (1) of this section; and
 - (b) The strategy for increased use of ethanol, cellulosic ethanol, biodiesel, and alternative transportation fuels, including the targeted amount and the dates by which these targets shall be achieved.

➔Section 9. KRS 156.153 is amended to read as follows:

- (1) All school buses for which bids are made or bid contracts awarded shall meet the standards and specifications of the Kentucky Department of Education.

The term "school bus," as used in this section, shall mean any motor vehicle which meets the standards and specifications for school buses as provided by law or by the standards or specifications of the Kentucky Department of Education authorized by law and used solely in transporting school children and school employees to and from school under the supervision and control and at the direction of school authorities, and

shall further include school bus accessory equipment and supplies and replacement equipment considered to be reasonably adaptable for purchase from price contract agreements.

- (2) Except in cases of emergencies or for the transportation of students with disabilities, only school buses as defined in subsection (1) of this section shall be used for transporting students to and from school along regular bus routes. Districts may use district-owned vehicles that were designed and built by the manufacturer for passenger transportation when transporting nine (9) or fewer passengers, including the driver, for approved school activities. Vehicles used under this subsection shall be clearly marked as transporting students and shall be safety inspected no less than once every thirty (30) days.
- (3) *As part of its regular procedure for establishing and updating school bus standards and specifications, the Kentucky Department of Education shall consider allowing school buses to operate using clean transportation fuels, as defined in Section 1 of this Act. If the department determines that school buses may operate using clean transportation fuels while maintaining the same or a higher degree of safety as fuels currently allowed, it shall update its standards and specifications to allow for such use.*

➔Section 10. KRS 234.321 is amended to read as follows:

- (1) The tax imposed by KRS 234.320 shall not be collected when the liquefied petroleum gas sold by the dealer is used to propel motor vehicles on the public highways, either within or without this state, when the motor vehicles using the liquefied petroleum gas are equipped with carburetion systems approved by the Energy and Environment Cabinet *or a fuel system that meets federal vehicle safety standards contained in 49 C.F.R. pt. 571.*
- (2) The Energy and Environment Cabinet shall establish emission standards for carburetion systems.

Signed by Governor April 4, 2013.

CHAPTER 117

(HB 272)

AN ACT relating to special Purple Heart motor vehicle license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 186.166 is amended to read as follows:

- (1) The Transportation Cabinet shall, unless directed otherwise by the General Assembly, perpetually produce the following special license plates: military license plates, U.S. Congressional license plates, firefighter license plates, emergency management license plates, Fraternal Order of Police license plates, Law Enforcement Memorial license plates, street rod license plates, nature license plates, amateur radio license plates, Kentucky General Assembly license plates, Kentucky Court of Justice license plates, Masonic Order license plates, collegiate license plates, independent college and university license plates, child victims' trust fund license plates, Kentucky Horse Council license plates, Ducks Unlimited license plates, Gold Star Mothers license plates, Silver Star Medal license plates, Bronze Star Medal license plates, spay neuter license plates, and I Support Veterans license plates.
- (2) The design of the plates identified for perpetual production under this section may be revised upon request of a group or organization requesting a design revision under the provisions of KRS 186.164(15).
- (3) (a) The design of a Purple Heart license plate shall not include any representation of the word "Kentucky" that is a registered trademark or slogan which appears on a general issue license plate.
 (b) *The design of a Purple Heart license plate shall include a representation of the Purple Heart medal and the words "Combat Wounded."*

➔Section 2. The design specifications indicated in subsection (3)(b) of Section 1 of this Act shall be included in the first regularly scheduled replating of the Purple Heart license plate after the effective date of this Act.

Signed by Governor April 4, 2013.

CHAPTER 118

(HB 366)

AN ACT relating to physical and health services and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 309.325 is amended to read as follows:

As used in KRS 309.325 to 309.339, unless the context requires otherwise:

- (1) "Board" means the Kentucky Board of Licensed Diabetes Educators;
- (2) "Diabetes education" means a comprehensive collaborative process through which people with or at risk for diabetes gain the knowledge and skills needed to modify behavior and successfully self-manage the disease and its related conditions;
- (3) "Licensed diabetes educator" means a health care professional who has met the requirements of KRS 309.335, 309.337, and 309.339 and who focuses on training or educating people with or at risk for diabetes and related conditions to change their behavior to achieve better clinical outcomes and improved health status. The nondiabetes educator health professional and the nonhealth-care professional who provide or support health care services to individuals with diabetes as defined by the American Association of Diabetes Educators, Competencies for Diabetes Educators, shall work under the direction of a qualified diabetes care provider; ~~and~~
- (4) "Practice of diabetes education" means assessing and developing a plan of care for a person with or at risk of diabetes, identifying self-management goals for the person, providing self-management training according to the plan, evaluating the individual's outcome and recording a complete record of the individual's experience and follow-ups;
- (5) "*Apprentice diabetes educator*" means a person who holds a permit issued by the board to practice diabetes education who meets the requirements of Section 2 of this Act and the corresponding administrative regulations promulgated by the board; and
- (6) "*Master licensed diabetes educator*" means a licensed diabetes educator who has successfully completed the credentialing program of the American Association of Diabetes Educators or the National Certification Board for Diabetes Educators as a certified diabetes educator or a board-certified advanced diabetes manager.

➔SECTION 2. A NEW SECTION OF KRS 309.325 TO 309.339 IS CREATED TO READ AS FOLLOWS:

- (1) *An applicant for a permit as an apprentice diabetes educator shall:*
 - (a) *File a written application on forms provided by the board in order to practice and earn the experience required for a type of license application;*
 - (b) *Engage in the practice of diabetes education while receiving qualifying experience with a board-approved supervisor who shall assume responsibility for and supervise the apprentice diabetes educator's practice;*
 - (c) *Not practice diabetes education until a supervisor has been approved by the board;*
 - (d) *Cease the practice of diabetes education immediately upon the supervisor's inability or unwillingness to act as the supervisor; and*
 - (e) *Upon gaining the required supervision hours and completing a board-approved diabetes educator course, apply for licensure as a licensed diabetes educator.*
- (2) *The board shall promulgate administrative regulations to do the following, including but not limited to:*
 - (a) *Establish the duties of the apprentice diabetes educator supervisor;*
 - (b) *Establish fees; and*
 - (c) *Establish additional requirements for an apprentice diabetes educator permit as the board determines are necessary.*

➔SECTION 3. A NEW SECTION OF KRS 309.325 TO 309.339 IS CREATED TO READ AS FOLLOWS:

- (1) *An applicant for licensure as a master licensed diabetes educator shall:*
- (a) *File a written application on forms provided by the board; and*
 - (b) *Provide proof of completion of the credentialing program of the American Association of Diabetes Educators or the National Certification Board for Diabetes Educators as a certified advanced diabetes manager or a certified diabetes educator.*
- (2) *The board shall promulgate administrative regulations to do the following, including but not limited to:*
- (a) *Establish a fee for licensure; and*
 - (b) *Establish additional requirements for a master licensed diabetes educator as the board determines are necessary.*

➔Section 4. KRS 309.327 is amended to read as follows:

- (1) ~~A [No]~~ person shall use the title "*master licensed diabetes educator*," "licensed diabetes educator," *or* "*apprentice diabetes educator*" or hold himself or herself out as a "*master licensed diabetes educator*," "licensed diabetes educator," *or* "*apprentice diabetes educator*" or a title substantially similar, or engage in the practice of diabetes education, display a sign or in any other way advertise or present himself or herself as a person who practices diabetes education ~~only if [unless]~~ he or she holds a current, unsuspended and unrevoked license *or permit* issued by the board pursuant to KRS 309.325 to 309.339.
- (2) Nothing in KRS 309.325 to 309.339 shall apply to persons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes, including but not limited to physicians, nurses, pharmacists, dietitians, and nutritionists or students in accredited training programs in those professions, and nothing in KRS 309.325 to 309.339 shall be construed to limit, interfere with, or restrict the practice, descriptions of services, or manner in which they hold themselves out to the public.
- (3) Nothing in KRS 309.325 to 309.339 shall be construed to alter, amend, or interfere with the practice of those who provide health care services, including but not limited to physicians, nurses, pharmacists, dietitians, and nutritionists.
- (4) Nothing in KRS 309.325 to 309.339 shall apply to activities and services of an accredited institution of higher education as part of a program of studies.

➔Section 5. KRS 309.335 is amended to read as follows:

- (1) An applicant for licensure as a diabetes educator shall:
- (a) File a written application on forms provided by the board;
 - (b) Provide evidence to the board showing successful completion of one (1) of the following:
 1. ~~A board-approved course in diabetes education~~~~{The American Association of Diabetes Educators' "Core Concepts Course"}~~ with demonstrable experience in the care of people with diabetes under supervision that meets requirements specified in administrative regulations promulgated by the board;
 2. The credentialing program of the American Association of Diabetes Educators or the National Certification Board for Diabetes Educators; or
 3. An equivalent credentialing program as determined by the board; and
 - (c) Pay licensing amounts as promulgated by the board through administrative regulation, with the following restrictions:
 1. Initial licensing shall not exceed one hundred dollars (\$100);
 2. Annual renewal shall not exceed one hundred dollars (\$100);
 3. Biennial renewal shall not exceed two hundred dollars (\$200);~~and~~
 4. Late renewal shall not exceed one hundred fifty dollars (\$150); *and*
 5. *The reinstatement fee shall not exceed two hundred twenty-five dollars (\$225).*

- (2) (a) Licenses *or permits* shall be renewed annually or biennially if the board requires biennial license renewal by administrative regulation.
- (b) Licenses *or permits* not renewed within thirty (30) days after the renewal date shall pay a late penalty as promulgated by the board in administrative regulation.
- (c) Licenses *or permits* not renewed within ninety (90) days of the renewal date shall lapse and may only be reinstated with payment of a **reinstatement fee** ~~late renewal penalty~~ and initial licensing amount as promulgated by the board in administrative regulation.
- (d) ***An apprentice diabetes educator shall not carry a permit for more than five (5) years without becoming licensed.***
- (3) Notwithstanding subsections (1) and (2) of this section, prior to July 1, ~~2014~~**2012**, a person who the board finds to have successfully achieved a core body of knowledge and skills in the biological and social sciences, communication, counseling, and education, by training or instruction, as well as experience in the care of people with diabetes under supervision that meets the requirements specified in administrative regulations promulgated by the board, may be issued an initial license by the board upon payment of an initial licensing fee, completion of a written application on forms provided by the board, and submission of any other information requested by the board.
- (4) ***Until May 1, 2014, notwithstanding subsection (1) of this section, individuals who have practiced diabetes education for a minimum of one thousand (1,000) hours per year for the past three (3) years, but are not currently credentialed by the American Association of Diabetes Educators as a board-certified advanced diabetes manager or by the National Certification Board for Diabetes Educators as a certified diabetes educator, may apply to the board for licensure as a diabetes educator by submitting the initial licensure fee and proof of employment, in order to continue to practice diabetes education, as defined by KRS 309.325(2).***

➔Section 6. KRS 211.400 is amended to read as follows:

- (1) To the extent possible with available funds, the Cabinet for Health and Family Services shall establish and operate the Kentucky Physicians Care Program to assist low-income uninsured **and underinsured** individuals in accessing primary health care services provided by volunteer health care practitioners and pharmaceutical drugs donated by pharmaceutical companies.
- (2) The program may access networks of practitioners, pharmacies, and pharmaceutical companies that are maintained by entities that recruit volunteers and donations, such as Health Kentucky, Inc. **and the Kentucky Free Health Clinic Association**, to locate necessary health care services for eligible applicants.
- (3) The program shall:
- (a) Operate and maintain a professionally staffed toll-free hotline information and referral service for individuals seeking primary care;
- (b) Refer individuals seeking health care services to the Department for Community Based Services or other enrollment sites approved by the cabinet for eligibility determination;
- (c) Refer individuals determined to be eligible to available health care service providers; and
- (d) Maintain a confidential record of all referrals.
- (4) The program may:
- (a) Create temporary volunteer advisory committees to provide input on program operations and efficiencies;
- (b) Contract with qualified, independent third parties to provide services; and
- (c) Apply for federal funds or other grants to operate the program.

➔Section 7. KRS 211.402 is amended to read as follows:

- (1) Individuals may apply for primary care services available from the Kentucky Physicians Care Program in their local Department for Community Based Services office or other enrollment sites approved by the cabinet. ~~An individual shall be eligible for services available from the program if he or she meets the following criteria:~~
- (a) ~~A gross income limit of one hundred percent (100%) of the federal poverty level;~~
- (b) ~~A resource limit of two thousand dollars (\$2,000);~~

~~(e) — Is not qualified for government medical assistance programs; and~~

~~(d) — Is not covered by a health benefit plan as defined under Subtitle 17A of KRS Chapter 304.]~~

- (2) If an individual is determined to be eligible, the department shall refer the individual to the program. An individual shall be eligible for services available under the program for one (1) year and may reapply.
- (3) Services that may be available from the program include but are not limited to visits to health care professionals and prescription drugs donated by pharmaceutical companies and filled by retail and hospital pharmacies. Eligibility for the program does not guarantee an individual access to free services not available under the program.
- (4) Individuals shall not be charged a fee for services provided under this program.
- (5) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to *establish eligibility criteria and* implement the provisions of KRS 211.400 and 211.402.

➔Section 8. KRS 205.560 is amended to read as follows:

- (1) The scope of medical care for which the Cabinet for Health and Family Services undertakes to pay shall be designated and limited by regulations promulgated by the cabinet, pursuant to the provisions in this section. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of Medical Assistance Program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any Medical Assistance Program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the Medical Assistance Program and the dentist prior to the removal of the teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for health and family services after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available, including but not limited to the following categories, except where the aid is for the purpose of obtaining an abortion:
 - (a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;
 - (b) Nursing-home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;
 - (c) Drugs, nursing care, medical supplies, and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist. For purposes of this paragraph, drugs shall include products for the treatment of inborn errors of metabolism or genetic conditions, consisting of therapeutic food, formulas, supplements, or low-protein modified food products that are medically indicated for therapeutic treatment and are administered under the direction of a physician, and include but are not limited to the following conditions:
 1. Phenylketonuria;
 2. Hyperphenylalaninemia;
 3. Tyrosinemia (types I, II, and III);
 4. Maple syrup urine disease;
 5. A-ketoacid dehydrogenase deficiency;
 6. Isovaleryl-CoA dehydrogenase deficiency;
 7. 3-methylcrotonyl-CoA carboxylase deficiency;
 8. 3-methylglutaconyl-CoA hydratase deficiency;
 9. 3-hydroxy-3-methylglutaryl-CoA lyase deficiency (HMG-CoA lyase deficiency);
 10. B-ketothiolase deficiency;
 11. Homocystinuria;
 12. Glutaric aciduria (types I and II);

13. Lysinuric protein intolerance;
 14. Non-ketotic hyperglycinemia;
 15. Propionic acidemia;
 16. Gyrate atrophy;
 17. Hyperornithinemia/hyperammonemia/homocitrullinuria syndrome;
 18. Carbamoyl phosphate synthetase deficiency;
 19. Ornithine carbamoyl transferase deficiency;
 20. Citrullinemia;
 21. Arginosuccinic aciduria;
 22. Methylmalonic acidemia; and
 23. Argininemia;
- (d) Physician, podiatric, and dental services;
- (e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses shall be provided only to children under age twenty-one (21);
- (f) Drugs on the prescription of a physician used to prevent the rejection of transplanted organs if the patient is indigent;
- (g) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where the students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified in this paragraph;
- (h) Services provided by health-care delivery networks as defined in KRS 216.900;
- (i) Services provided by midlevel health-care practitioners as defined in KRS 216.900; and
- (j) Smoking cessation treatment interventions or programs prescribed by a physician, advanced practice registered nurse, physician assistant, or dentist, including but not limited to counseling, telephone counseling through a quitline, recommendations to the recipient that smoking should be discontinued, and prescription and over-the-counter medications and nicotine replacement therapy approved by the United States Food and Drug Administration for smoking cessation.
- (2) Payments for hospital care, nursing-home care, and drugs or other medical, ophthalmic, podiatric, and dental supplies shall be on bases which relate the amount of the payment to the cost of providing the services or supplies. It shall be one (1) of the functions of the council to make recommendations to the Cabinet for Health and Family Services with respect to the bases for payment. In determining the rates of reimbursement for long-term-care facilities participating in the Medical Assistance Program, the Cabinet for Health and Family Services shall, to the extent permitted by federal law, not allow the following items to be considered as a cost to the facility for purposes of reimbursement:
- (a) Motor vehicles that are not owned by the facility, including motor vehicles that are registered or owned by the facility but used primarily by the owner or family members thereof;
 - (b) The cost of motor vehicles, including vans or trucks, used for facility business shall be allowed up to fifteen thousand dollars (\$15,000) per facility, adjusted annually for inflation according to the increase in the consumer price index-u for the most recent twelve (12) month period, as determined by the United States Department of Labor. Medically equipped motor vehicles, vans, or trucks shall be exempt from the fifteen thousand dollar (\$15,000) limitation. Costs exceeding this limit shall not be reimbursable and shall be borne by the facility. Costs for additional motor vehicles, not to exceed a total of three (3) per facility, may be approved by the Cabinet for Health and Family Services if the facility demonstrates that each additional vehicle is necessary for the operation of the facility as required by regulations of the cabinet;

- (c) Salaries paid to immediate family members of the owner or administrator, or both, of a facility, to the extent that services are not actually performed and are not a necessary function as required by regulation of the cabinet for the operation of the facility. The facility shall keep a record of all work actually performed by family members;
 - (d) The cost of contracts, loans, or other payments made by the facility to owners, administrators, or both, unless the payments are for services which would otherwise be necessary to the operation of the facility and the services are required by regulations of the Cabinet for Health and Family Services. Any other payments shall be deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health and Family Services. Interest paid to the facility for loans made to a third party may be used to offset allowable interest claimed by the facility;
 - (e) Private club memberships for owners or administrators, travel expenses for trips outside the state for owners or administrators, and other indirect payments made to the owner, unless the payments are deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health and Family Services; and
 - (f) Payments made to related organizations supplying the facility with goods or services shall be limited to the actual cost of the goods or services to the related organization, unless it can be demonstrated that no relationship between the facility and the supplier exists. A relationship shall be considered to exist when an individual, including brothers, sisters, father, mother, aunts, uncles, and in-laws, possesses a total of five percent (5%) or more of ownership equity in the facility and the supplying business. An exception to the relationship shall exist if fifty-one percent (51%) or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.
- (3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.
 - (4) The rules and regulations of the Cabinet for Health and Family Services shall require that a written statement, including the required opinion of a physician, shall accompany any claim for reimbursement for induced premature births. This statement shall indicate the procedures used in providing the medical services.
 - (5) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. It shall not be necessary that the amount of payments for units of services be uniform for the entire state but amounts may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in each locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, as long as the place of practice is within the boundaries of the state.
 - (6) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.
 - (7) To the extent permitted by federal law, no medical assistance recipient shall be recertified as qualifying for a level of long-term care below the recipient's current level, unless the recertification includes a physical examination conducted by a physician licensed pursuant to KRS Chapter 311 or by an advanced practice registered nurse licensed pursuant to KRS Chapter 314 and acting under the physician's supervision.
 - (8) If payments made to community mental health centers, established pursuant to KRS Chapter 210, for services provided to the intellectually disabled exceed the actual cost of providing the service, the balance of the payments shall be used solely for the provision of other services to the intellectually disabled through community mental health centers.
 - (9) No long-term-care facility, as defined in KRS 216.510, providing inpatient care to recipients of medical assistance under Title XIX of the Social Security Act on July 15, 1986, shall deny admission of a person to a bed certified for reimbursement under the provisions of the Medical Assistance Program solely on the basis of the person's paying status as a Medicaid recipient. No person shall be removed or discharged from any facility solely because they became eligible for participation in the Medical Assistance Program, unless the facility can demonstrate the resident or the resident's responsible party was fully notified in writing that the resident was being admitted to a bed not certified for Medicaid reimbursement. No facility may decertify a bed occupied by

a Medicaid recipient or may decertify a bed that is occupied by a resident who has made application for medical assistance.

- (10) Family-practice physicians practicing in geographic areas with no more than one (1) primary-care physician per five thousand (5,000) population, as reported by the United States Department of Health and Human Services, shall be reimbursed one hundred twenty-five percent (125%) of the standard reimbursement rate for physician services.
- (11) The Cabinet for Health and Family Services shall make payments under the Medical Assistance program for services which are within the lawful scope of practice of a chiropractor licensed pursuant to KRS Chapter 312, to the extent the Medical Assistance Program pays for the same services provided by a physician.
- (12) The Medical Assistance Program shall use the form and guidelines established pursuant to KRS 304.17A-545(5) for assessing the credentials of those applying for participation in the Medical Assistance Program, including those licensed and regulated under KRS Chapters 311, 312, 314, 315, and 320, any facility required to be licensed pursuant to KRS Chapter 216B, and any other health care practitioner or facility as determined by the Department for Medicaid Services through an administrative regulation promulgated under KRS Chapter 13A. *For any provider who is credentialed by a Medicaid managed care organization the cabinet shall complete the enrollment and credentialing process and deny, or approve and issue a Medical Assistance Identification Number (MAID) within fifteen (15) business days from the time all necessary completed credentialing forms have been submitted and all outstanding accounts receivable have been satisfied.*
- (13) Dentists licensed under KRS Chapter 313 shall be excluded from the requirements of subsection (12) of this section. The Department for Medicaid Services shall develop a specific form and establish guidelines for assessing the credentials of dentists applying for participation in the Medical Assistance Program.

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "IMPACT Plus" program means the program of community-based behavioral health services provided to an eligible IMPACT Plus recipient through an agreement between the Department for Medicaid Services and the Department for Public Health as the state agency for the federal Title V Maternal and Child Health Block Grant, 42 U.S.C. secs. 701 to 710 or as authorized under subsection (3) of this section.*
- (2) *Any Medicaid managed care organization that contracts with the Department for Medicaid Services shall, to the extent possible under the Title V agreement, manage aspects of the IMPACT Plus program for its members, including but not limited to the determination of a child's eligibility for IMPACT Plus services, processing and direct payment of claims, and audits. No state agency shall duplicate any function performed by the Medicaid managed care organizations for the IMPACT Plus program. Appeals of payments shall be submitted for review to the Department for Behavioral Health, Developmental and Intellectual Disabilities.*
- (3) *Children eligible for the IMPACT Plus program may continue to receive services, if the family and provider agree, from:*
 - (a) *An individual IMPACT Plus therapist if the child is relocated outside of the provider's service area; and*
 - (b) *The same provider if a child is eligible for those services, but no longer eligible for IMPACT Plus services, and the provider meets the participation standards to provide services under the acquired brain injury, the Michelle P. waiver, the supports for community living, or the home and community based waiver programs.*
- (4) *IMPACT Plus providers shall bill for all IMPACT Plus services, including case management, under their IMPACT Plus provider identification. IMPACT Plus providers shall not be required to obtain a Medical Assistance Identification Number (MAID). Nothing in this section shall preclude an IMPACT Plus provider from applying for a MAID number, providing they meet all necessary criteria.*
- (5) *Medicaid managed care organizations may report documented gaps in IMPACT Plus services or lack of access to IMPACT Plus services to the Department for Behavioral Health, Developmental and Intellectual Disabilities. The Department for Behavioral Health, Developmental and Intellectual Disabilities shall verify or not verify the reported gaps.*

- (6) *If the Department for Behavioral Health, Developmental and Intellectual Disabilities verifies gaps in IMPACT Plus services or lack of access to IMPACT Plus services, IMPACT Plus providers may be utilized for additional IMPACT Plus services and additional IMPACT Plus providers may be utilized.*

➔SECTION 10. A NEW SECTION OF KRS 217.005 TO 217.215 IS CREATED TO READ AS FOLLOWS:

- (1) *A licensed health-care provider who, acting in good faith, directly or by standing order, prescribes or dispenses the drug naloxone to a patient who, in the judgment of the health-care provider, is capable of administering the drug for an emergency opioid overdose, shall not, as a result of his or her acts or omissions, be subject to disciplinary or other adverse action under KRS Chapter 311, 311A, 314, or 315 or any other professional licensing statute.*
- (2) *A prescription for naloxone may include authorization for administration of the drug to the person for whom it is prescribed by a third party if the prescribing instructions indicate the need for the third party upon administering the drug to immediately notify a local public safety answering point of the situation necessitating the administration. A person acting in good faith who administers naloxone as the third party under this section shall be immune from criminal and civil liability for the administration, unless personal injury results from the gross negligence or willful or wanton misconduct of the person administering the drug.*

➔Section 11. KRS 304.17A-139 is amended to read as follows:

- (1) A health benefit plan that provides coverage for a family or dependent shall provide coverage of a newly born child of the insured from the moment of birth.
- (2) Coverage for a newly born child shall consist of coverage of injury or sickness, including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities.
- (3) If payment of a specific premium or fee is required to provide coverage for a child, the policy or contract may require that notification of birth of a newly born child and payment of the required premium or fees must be furnished to the insurer within thirty-one (31) days after the date of birth in order to have the coverage continue beyond that thirty-one (31) day period.
- (4) (a) *For the purposes of this subsection:*
1. *"Milk fortifier" means a commercially prepared human milk fortifier made from concentrated one hundred percent (100%) human milk.*
 2. *"One hundred percent (100%) human diet" means the supplementation of a mother's expressed breast milk or donor milk with a milk fortifier.*
- (b) *A health benefit plan that provides prescription drug coverage shall provide that coverage for a one hundred percent (100%) human diet, if the one hundred percent (100%) human diet and supplemented milk fortifier products are prescribed for the prevention of Necrotizing Enterocolitis and associated comorbidities, and are administered under the direction of a physician. Coverage under this subsection may be subject to a cap of fifteen thousand dollars (\$15,000) per infant, for each plan year, subject to annual inflation adjustments.*
- (5) *The requirements of this section shall apply to all health benefit plans delivered or issued for delivery on or after the effective date of this Act.*

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

As used in Sections 12 to 15 of this Act, unless the context requires otherwise:

- (1) *"Cabinet" means the Cabinet for Health and Family Services;*
- (2) *"Commissioner" means the commissioner of the Department for Public Health;*
- (3) *"Department" means the Department for Public Health; and*
- (4) *"Secretary" means the secretary of the Cabinet for Health and Family Services.*

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *The secretary shall appoint the Perinatal Advisory Committee to make recommendations for the improvement of the following statewide health status indicators that relate to pregnancy and perinatal care:*

1. *Infant mortality;*
 2. *Preterm birth;*
 3. *Substance abuse during pregnancy;*
 4. *Neonatal withdrawal syndrome, also called Neonatal Abstinence Syndrome (NAS); and*
 5. *Maternal mortality.*
- (b) *The committee may make recommendations on evidence-based guidelines and programs to improve the outcomes of pregnancies, including ways to improve coordination of existing programs operated by the cabinet and private organizations.*
- (2) *The advisory committee shall be attached to the cabinet for administrative purposes and be composed of the following members:*
- (a) *The director of the Division of Maternal and Child Health, Department for Public Health, who shall serve as chair of the advisory committee;*
 - (b) *The director of the Division of Maternal-Fetal Medicine, University of Kentucky College of Medicine;*
 - (c) *The director of the Division of Maternal-Fetal Medicine, University of Louisville School of Medicine;*
 - (d) *The director of a maternal-fetal medicine program from a pediatric teaching hospital with a Level III NICU that has a minimum of thirty (30) beds, to be selected by the secretary;*
 - (e) *The director of the Division of Neonatology, University of Kentucky College of Medicine;*
 - (f) *The director of the Division of Neonatology, University of Louisville School of Medicine;*
 - (g) *One (1) practicing obstetrician from rural practice in a hospital with a Level I nursery, to be selected by the secretary;*
 - (h) *One (1) practicing obstetrician from rural practice in a hospital with a Level II neonatal intensive care unit (NICU), to be selected by the secretary;*
 - (i) *One (1) practicing pediatrician from rural practice in a hospital with a Level I nursery, to be selected by the secretary;*
 - (j) *One (1) practicing pediatrician or one (1) practicing neonatologist from rural practice in a hospital with a Level II NICU, to be selected by the secretary;*
 - (k) *One (1) practicing pediatrician or one (1) practicing neonatologist from a non-university urban practice hospital with a Level II NICU, to be selected by the secretary;*
 - (l) *One (1) practicing pediatrician or one (1) practicing neonatologist from a pediatric teaching hospital with a Level III NICU that has a minimum of thirty (30) beds, to be selected by the secretary;*
 - (m) *The president of the Kentucky Perinatal Association or designee;*
 - (n) *The president of the Kentucky Academy of Family Practice or designee;*
 - (o) *The president of the Kentucky Chapter of the American Academy of Pediatrics or designee;*
 - (p) *The president of the Kentucky Section of the American College of Obstetricians and Gynecologists or designee;*
 - (q) *The president of the Kentucky Chapter of the Association of Women's Health, Obstetric, and Neonatal Nurses or designee;*
 - (r) *The chair of the Kentucky Medical Association's Committee on Maternal and Neonatal Health or designee;*
 - (s) *The chair of the Kentucky Medical Association's Committee on Maternal Mortality or designee;*
 - (t) *One (1) board-certified pediatric surgeon, to be selected by the secretary;*
 - (u) *One (1) board-certified pediatrician specializing in medical genetics, to be selected by the secretary;*
 - (v) *One (1) perinatal social worker, to be selected by the secretary; and*

- (w) *One (1) representative from a non-university hospital with a Level II or a Level III NICU, selected by the secretary.*
- (3) *Other subject matter experts may be represented as members of the advisory committee at the discretion of the secretary.*
- (4) *The advisory committee shall meet at least quarterly and shall hold its first meeting no later than thirty (30) days after the effective date of this Act.*
- (5) *The advisory committee shall submit an annual report of its activities and recommendations to the secretary and the commissioner.*

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

All cases of Neonatal Abstinence Syndrome (NAS) diagnosed among Kentucky resident births shall be reported to the Kentucky Department for Public Health by the facility where NAS is diagnosed. The report shall be made at the time of NAS diagnosis pursuant to guidance issued by the department.

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding any other law to the contrary, all information reported or furnished to the Kentucky Department for Public Health pursuant to Sections 12 to 15 of this Act shall be privileged and confidential, shall not be considered a public record under KRS 61.870 to 61.884, and shall not be discussed at any meeting as defined in KRS 61.805, unless conducted in a closed session in accordance with KRS 61.815.*
- (2) *Information reported in compliance with Sections 12 to 15 of this Act shall not be disclosed by any person or entity, and shall not be subject to subpoena, court order, or discovery, or admissible as evidence in any civil or administrative proceeding in the Commonwealth.*
- (3) *For purposes of this section, "information" shall be liberally construed to include reports; statements; interviews; memoranda; data, whether kept individually or aggregated; or summaries of same.*
- (4) *Nothing within this section is intended to limit the Kentucky Department for Public Health's internal use of such information to fulfill the express purposes of Sections 12 to 15 of this Act.*

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section and KRS 211.690:*

(a) *"Home visitation" means a service delivery strategy with voluntary participation by eligible families that is carried out in the homes of at-risk parents during the prenatal period and until the child's third birthday that provides face-to-face visits by nurses, social workers, and other early childhood professionals or trained and supervised paraprofessionals to improve maternal, infant, and child health and well-being, including:*

1. *Reducing preterm births;*
2. *Promoting positive parenting practices;*
3. *Improving school readiness;*
4. *Enhancing the social, emotional, and cognitive development of children;*
5. *Reducing child abuse and neglect;*
6. *Improving the health of the family; and*
7. *Empowering families to be self-sufficient;*

(b) *"Home visitation program" means the voluntary statewide home visiting program established by KRS 211.690 or a program implementing a research-based model or a promising model that includes voluntary home visitation as a primary service delivery strategy that may supplement but shall not duplicate any existing program that provides assistance to parents of young children and that does not include:*

1. *Programs with few or infrequent home visits;*
2. *Home visits based on professional judgment or medical referrals that are infrequent and supplemental to a treatment plan;*

3. *Programs in which home visiting is supplemental to other services, such as child protective services;*
 4. *In-home services delivered through provisions of an individualized family service plan or individualized education program under the federal Individuals with Disabilities Education Act, Part B or C; or*
 5. *Programs with goals related to direct intervention of domestic violence or substance abuse;*
- (c) *"Research-based model" means a home visitation model based on a clear, consistent program model that:*
1. *Is research-based, grounded in relevant empirically based knowledge, linked to program determined outcomes, has comprehensive home visitation standards that ensure high-quality service delivery and continuous quality improvement, and has demonstrated significant, sustained positive outcomes;*
 2. *Employs highly trained and competent professionals or paraprofessionals who are provided close supervision and continual professional development and training relevant to the specific model being delivered;*
 3. *Demonstrates strong linkages to other community-based services; and*
 4. *Is operated within an organization to ensure program fidelity and meets the outlined objectives and criteria for the model design; and*
- (d) *"Promising model" means a home visitation model that has ongoing research, is modeled after programs with proven standards and outcomes, and has demonstrated its effectiveness or is actively incorporating model evaluation protocols designed to measure its efficacy.*
- (2) *Beginning fiscal year 2014, an agency receiving state funds for the purpose of the delivery of home visitation services shall:*
- (a) *Meet the definition of home visitation program in this section;*
 - (b) *Demonstrate to the Department for Public Health that it is part of a coordinated system of care for promoting health and well-being for at-risk parents during the prenatal period and until the child's third birthday; and*
 - (c) *Report data to the statewide home visiting data system managed by the Department for Public Health in a uniform format prescribed by the department assuring common data elements, relevant home visiting data, and information to monitor program effectiveness, including program outcomes, numbers of families served, and other relevant data as determined by the department.*

➔SECTION 17. A NEW SECTION OF KRS CHAPTER 14 IS CREATED TO READ AS FOLLOWS:

- (1) *As funds are available, the Secretary of State, or designee, may promulgate administrative regulations to expand the address protection program to allow an applicant or specified guardians to apply to have a substitute address designated to serve as the address of the participant. Any program created under this section shall:*
- (a) *Collaborate with the Kentucky Commission on Women;*
 - (b) *Establish criteria to prohibit certain individuals, including any individual required to register as a sex offender, from participation in the program;*
 - (c) *Allow a participant to request that state and local agencies use the substitute address as the address of the participant, but agencies may show that they have a bona fide statutory or administrative requirement for the actual address;*
 - (d) *Be open to individuals that are victims of domestic violence and abuse, stalking, any victim of an offense or an attempt to commit an offense defined in KRS Chapter 510, KRS 530.020, KRS 530.064(1)(a), KRS 531.310, or KRS 531.320, or any victim of a similar federal offense or a similar offense from another state or territory;*
 - (e) *Allow an applicant to submit evidence, including a sworn statement, to show that he or she is a victim of a qualifying offense.*

- (2) *Participation in any program established under this section shall not affect custody or visitation orders in effect prior to or established during program participation, nor shall it constitute evidence of any offense and shall not be considered for purposes of making an order allocating parental responsibilities or parenting time.*
- (3) *No actionable duty nor any right of action shall accrue against the state, any entity operating an address protection program for the state, an individual operating in his or her professional capacity on behalf of the confidential address protection program established in this section, or an employee of the state or municipality in the event of negligent acts that result in the disclosure of a program participant's actual address.*

➔Section 18. Section 4 of this Act takes effect July 1, 2014.

➔Section 19. Whereas it is in the interest of the public welfare, an emergency is declared to exist, and Section 8 of this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 4, 2013.

CHAPTER 119

(HB 440)

AN ACT relating to the financing of government and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 131.081 is amended to read as follows:

The following rules, principles, or requirements shall apply in the administration of all taxes subject to the jurisdiction of the Department of Revenue.

- (1) The department shall develop and implement a Kentucky tax education and information program directed at new taxpayers, taxpayer and industry groups, and department employees to enhance the understanding of and compliance with Kentucky tax laws, including the application of new tax legislation to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.
- (2) The department shall publish brief statements in simple and nontechnical language which explain procedures, remedies, and the rights and obligations of taxpayers and the department. These statements shall be provided to taxpayers with the initial notice of audit; each original notice of tax due; each denial or reduction of a refund or credit claimed by a taxpayer; each denial, cancellation, or revocation of any license, permit, or other required authorization applied for or held by a taxpayer; and, if practical and appropriate, in informational publications by the department distributed to the public.
- (3) Taxpayers shall have the right to be assisted or represented by an attorney, accountant, or other person in any conference, hearing, or other matter before the department. The taxpayer shall be informed of this right prior to conduct of any conference or hearing.
- (4) The department shall perform audits and conduct conferences and hearings only at reasonable times and places.
- (5) Taxpayers shall have the right to make audio recordings of any conference with or hearing by the department. The department may make similar audio recordings if prior written notice is given to the taxpayer or if the taxpayer records the conference or hearing. The taxpayer shall be entitled to a copy of this department recording or a transcript as provided in KRS 61.874.
- (6) If any taxpayer's failure to submit a timely return or payment to the department is due to the taxpayer's reasonable reliance on written advice from the department, the taxpayer shall be relieved of any penalty or interest with respect thereto, provided the taxpayer requested the advice in writing from the department and the specific facts and circumstances of the activity or transaction were fully described in the taxpayer's request, the department did not subsequently rescind or modify the advice in writing, and there were no subsequent

changes in applicable laws or regulations or a final decision of a court which rendered the department's earlier written advice no longer valid.

- (7) Taxpayers shall have the right to receive a copy of any audit of the department by the Auditor of Public Accounts relating to the department's compliance with the provisions of KRS 131.041 to 131.081.
- (8) The department shall include with each notice of tax due a clear and concise description of the basis and amount of any tax, penalty, and interest assessed against the taxpayer, and copies of the agent's audit workpapers and the agent's written narrative setting forth the grounds upon which the assessment is made. Taxpayers shall be similarly notified regarding the denial or reduction of any refund or credit claim filed by a taxpayer.
- (9)
 - (a) Taxpayers shall have the right to an installment payment agreement for the payment of delinquent taxes, penalties, and interest owed, provided the taxpayer requests the agreement in writing clearly demonstrating:
 1. His *or her* inability to pay in full; and
 2. That the agreement will facilitate collection by the department of the amounts owed.
 - (b) The department may modify or terminate an installment payment agreement *and may pursue statutory remedies against the taxpayer* if it determines *that*:
 1. The taxpayer has not complied with the terms of the agreement, *including minimum payment requirements established by the agreement*;
 2. The taxpayers' financial condition has sufficiently changed;
 3. The taxpayer fails to provide any requested financial condition update information;
 4. The taxpayer gave false or misleading information in securing the agreement; or
 5. The taxpayer fails to timely report and pay any other tax due the Commonwealth.
 - (c) The department shall give written notice to the taxpayer at least thirty (30) days prior to modifying or terminating an installment payment agreement unless the department has reason to believe that collection of the amounts owed will be jeopardized in whole or in part by delay.
- (10) The department shall not knowingly authorize, require, or conduct any investigation or surveillance of any person for nontax administration related purposes, except internal security related investigations involving Department of Revenue personnel.
- (11) In addition to the circumstances under which an extension of time for filing reports or returns may be granted pursuant to KRS 131.170, taxpayers shall be entitled to the same extension of the due date of any comparable Kentucky tax report or return for which the taxpayer has secured a written extension from the Internal Revenue Service provided the taxpayer notifies the department in writing and provides a copy of the extension at the time and in the manner which the department may require.
- (12) The department shall bear the cost or, if paid by the taxpayer, reimburse the taxpayer for recording or bank charges as the direct result of any erroneous lien or levy by the department, provided the erroneous lien or levy was caused by department error and, prior to issuance of the erroneous lien or levy, the taxpayer timely responded to all contacts by the department and provided information or documentation sufficient to establish his or her position. When the department releases any erroneous lien or levy, notice of the fact shall be mailed to the taxpayer and, if requested by the taxpayer, a copy of the release, together with an explanation, shall be mailed to the major credit reporting companies located in the county where it was filed.
- (13) The department shall not evaluate individual officers or employees on the basis of taxes assessed or collected or impose or suggest tax assessment or collection quotas or goals.
- (14) Taxpayers shall have the right to bring an action for damages against the Commonwealth to the Board of Claims for actual and direct monetary damages sustained by the taxpayer as a result of willful, reckless, and intentional disregard by department employees of the rights of taxpayers as set out in KRS 131.041 to 131.081 or in the tax laws administered by the department. In the awarding of damages pursuant to this subsection, the board shall take into consideration the negligence or omissions, if any, on the part of the taxpayer which contributed to the damages. If any proceeding brought by a taxpayer is ruled frivolous by the board, the department shall be reimbursed by the taxpayer for its costs in defending the action.

- (15) Taxpayers shall have the right to privacy with regard to the information provided on their Kentucky tax returns and reports, including any attached information or documents. Except as provided in KRS 131.190, no information pertaining to the returns, reports, or the affairs of a person's business shall be divulged by the department to any person or be intentionally and without authorization inspected by any present or former commissioner or employee of the Department of Revenue, member of a county board of assessment appeals, property valuation administrator or employee, or any other person.

➔Section 2. KRS 131.1817 is amended to read as follows:

- (1) As used in this section:~~{;}~~

(a) *"Attorneys' license" means a license issued pursuant to the rules of the Supreme Court of Kentucky authorizing the practice of law in the Commonwealth;*

(b) *"Delinquent taxpayer" means:*

1. *A taxpayer with an overdue state tax liability:*

a. *That is not covered by a current installment payment agreement;*

b. *For which all protest and appeal rights under the law have expired; and*

c. *About which the department has contacted the taxpayer; or*

2. *A taxpayer who:*

a. *Has not filed a required tax return within ninety (90) days following the due date of the return, or if the due date was extended, within ninety (90) days following the extended due date of the return; and*

b. *Was contacted by the department about the delinquent return;*

(c) *"Driver's license" means a license issued by the Transportation Cabinet;*

(d) *"License" means any occupational or professional certification, license, registration, or certificate issued by a licensing agency that is required to engage in an occupation, profession, or trade in the Commonwealth, other than a license issued to an attorney; and*

(e) *"Licensing agency" means any instrumentality, agency, board, commission, or department established by statute that has the power and authority within the Commonwealth to issue any license, except "licensing agency" shall not include the Supreme Court of Kentucky, relating to licenses issued to attorneys to practice law in the Commonwealth~~{occupational or professional certification, license, or registration required to engage in an occupation, profession, or trade in the Commonwealth}.~~*

- (2) The department may identify licensing agencies from which it wants to obtain information for the purpose of tax compliance.

- (3) Any licensing agency identified by the department shall work with the department to develop a process to provide the department with information about its licensees.

- (4) *Any delinquent taxpayer who:*

(a) *Holds a license;*

(b) *Is an attorney licensed to practice law in the Commonwealth;*

(c) *Holds a driver's license; or*

(d) *Owens a motor vehicle registered in the Commonwealth;*

may have that license, or driver's license suspended or revoked, and may be denied the ability to register his or her motor vehicle in the Commonwealth as provided in subsection (5) of this section.

- (5) (a) *To begin the process of revocation of a license, or suspension of the ability to register a motor vehicle, the department shall notify the delinquent taxpayer by certified mail at least twenty (20) days prior to submission of the name of a delinquent taxpayer to the relevant agency that his or her name will be submitted to:*

1. *The licensing agency, for revocation of a license;*

2. *The Transportation Cabinet, for revocation of a driver's license or denial of the ability to register a motor vehicle in the Commonwealth; or*
 3. *The Kentucky Supreme Court, for the revocation of a license to practice law in the Commonwealth.*
- (b) *The notice shall:*
1. *State the reason for the action;*
 2. *Set forth the amount of any overdue tax liability, including any applicable penalties and interest;*
 3. *Explain any other area of noncompliance that must be satisfied to prevent the submission of the taxpayer's name to the licensing agency as a delinquent taxpayer; and*
 4. *List all licenses or registrations for which revocation will be sought.*
- (c) *After the passage of at least twenty (20) days from the date the notice was sent under paragraph (a) of this subsection, and if the issues identified in the notice were not resolved to the satisfaction of the department, the department may:*
- a. *Submit the name of the delinquent taxpayer to the licensing agency, or the Transportation Cabinet; or*
 - b. *If the delinquent taxpayer is an attorney licensed to practice law in the Commonwealth, submit the name of the attorney to the Kentucky Supreme Court for appropriate action to enforce Supreme Court Rules.*
- (d) *Upon notification by the department that the licensee or motor vehicle owner is a delinquent taxpayer, the licensing agency or Transportation Cabinet, as the case may be, shall deny or revoke any license held or applied for by the licensee, and the Transportation Cabinet shall not allow the delinquent taxpayer to register a motor vehicle in the Commonwealth.*
- (e) *Any delinquent taxpayer who has had a license denied or revoked, or who has been denied the ability to register a motor vehicle shall have the right to appeal to the licensing agency or the Transportation Cabinet as authorized by law, provided that appeals shall only be permitted based upon a mistake in facts relied upon by the department, the licensing agency, or the Transportation Cabinet that the licensee or motor vehicle owner is a delinquent taxpayer.*
- (f) *A license that has been denied or revoked under this section shall not be reissued or renewed, and a motor vehicle registration that has been denied under this section shall not be permitted until a written tax clearance has been received from the department by the licensing agency or the Transportation Cabinet, as the case may be.*
- (g) *The department may promulgate administrative regulations under KRS Chapter 13A to implement the provisions of this section.*

➔Section 3. KRS 131.190 is amended to read as follows:

- (1) (a) No present or former commissioner or employee of the Department of Revenue, present or former member of a county board of assessment appeals, present or former property valuation administrator or employee, present or former secretary or employee of the Finance and Administration Cabinet, former secretary or employee of the Revenue Cabinet, or any other person, shall intentionally and without authorization inspect or divulge any information acquired by him of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the department or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business.
- (b) The prohibition established by paragraph (a) of this subsection does not extend to:
 1. Information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws;
 2. Any matter properly entered upon any assessment record, or in any way made a matter of public record;

3. Furnishing any taxpayer or his properly authorized agent with information respecting his own return;
 4. Testimony provided by the commissioner or any employee of the Department of Revenue in any court, or the introduction as evidence of returns or reports filed with the department, in an action for violation of state or federal tax laws or in any action challenging state or federal tax laws;
 5. Providing an owner of unmined coal, oil or gas reserves, and other mineral or energy resources assessed under KRS 132.820(1), or owners of surface land under which the unmined minerals lie, factual information about the owner's property derived from third-party returns filed for that owner's property, under the provisions of KRS 132.820(2), that is used to determine the owner's assessment. This information shall be provided to the owner on a confidential basis, and the owner shall be subject to the penalties provided in KRS 131.990(2). The third-party filer shall be given prior notice of any disclosure of information to the owner that was provided by the third-party filer;~~or~~
 6. Providing to a third-party purchaser pursuant to an order entered in a foreclosure action filed in a court of competent jurisdiction, factual information related to the owner or lessee of coal, oil, gas reserves, or any other mineral resources assessed under KRS 132.820(1). The department may promulgate an administrative regulation establishing a fee schedule for the provision of the information described in this subparagraph. Any fee imposed shall not exceed the greater of the actual cost of providing the information or ten dollars (\$10); *or*
 7. ***Providing information to a licensing agency, the Transportation Cabinet, or the Kentucky Supreme Court under Section 2 of this Act.***
- (2) The commissioner shall make available any information for official use only and on a confidential basis to the proper officer, agency, board or commission of this state, any Kentucky county, any Kentucky city, any other state, or the federal government, under reciprocal agreements whereby the department shall receive similar or useful information in return.
 - (3) Statistics of tax-paid gasoline gallonage reported monthly to the Department of Revenue under the gasoline excise tax law may be made public by the department.
 - (4) Access to and inspection of information received from the Internal Revenue Service is for Department of Revenue use only, and is restricted to tax administration purposes. Notwithstanding the provisions of this section to the contrary, information received from the Internal Revenue Service shall not be made available to any other agency of state government, or any county, city, or other state, and shall not be inspected intentionally and without authorization by any present secretary or employee of the Finance and Administration Cabinet, commissioner or employee of the Department of Revenue, or any other person.
 - (5) Statistics of crude oil as reported to the Department of Revenue under the crude oil excise tax requirements of KRS Chapter 137 and statistics of natural gas production as reported to the Department of Revenue under the natural resources severance tax requirements of KRS Chapter 143A may be made public by the department by release to the Energy and Environment Cabinet, Department for Natural Resources.
 - (6) Notwithstanding any provision of law to the contrary, beginning with mine-map submissions for the 1989 tax year, the department may make public or divulge only those portions of mine maps submitted by taxpayers to the department pursuant to KRS Chapter 132 for ad valorem tax purposes that depict the boundaries of mined-out parcel areas. These electronic maps shall not be relied upon to determine actual boundaries of mined-out parcel areas. Property boundaries contained in mine maps required under KRS Chapters 350 and 352 shall not be construed to constitute land surveying or boundary surveys as defined by KRS 322.010 and any administrative regulations promulgated thereto.
 - (7) Notwithstanding any other provision of the Kentucky Revised Statutes, the department may divulge to the applicable school districts on a confidential basis any utility gross receipts license tax return information that is necessary to administer the provisions of KRS 160.613 to 160.617.
- ➔Section 4. KRS 186.570 is amended to read as follows:
- (1) The cabinet or its agent designated in writing for that purpose may deny any person an operator's license or may suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, subject to a hearing and with or without receiving a record of conviction of that person of a crime, if the cabinet has reason to believe that:

- (a) That person has committed any offenses for the conviction of which mandatory revocation of a license is provided by KRS 186.560.
 - (b) That person has, by reckless or unlawful operation of a motor vehicle, caused, or contributed to an accident resulting in death or injury or serious property damage.
 - (c) That person has a mental or physical disability that makes it unsafe for him to drive upon the highways. The Transportation Cabinet shall, by administrative regulations promulgated pursuant to KRS Chapter 13A, establish a medical review board to provide technical assistance in the review of the driving ability of these persons. The board shall consist of licensed medical and rehabilitation specialists.
 - (d) That person is an habitually reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws.
 - (e) That person has been issued a license without making proper application for it, as provided in KRS 186.412 and administrative regulations promulgated pursuant to KRS Chapter 13A.
 - (f) That person has presented false or misleading information as to the person's residency, citizenship, religious convictions, or immigration status.
 - (g) A person required by KRS 186.480 to take an examination has been issued a license without first having passed the examination.
 - (h) That person has been convicted of assault and battery resulting from the operation of a motor vehicle.
 - (i) That person has failed to appear pursuant to a citation or summons issued by a law enforcement officer of this Commonwealth or any other jurisdiction.
 - (j) That person has failed to appear pursuant to an order by the court to produce proof of security required by KRS 304.39-010 and a receipt showing that a premium for a minimum policy period of six (6) months has been paid.
 - (k) That person is a habitual violator of KRS 304.39-080. For purposes of this section, a "habitual violator" shall mean any person who has operated a motor vehicle without security on the motor vehicle as required by Subtitle 39 of this chapter three (3) or more times within a five (5) year period, in violation of KRS 304.99-060(2).
- (2) The cabinet shall deny any person a license or shall suspend the license of an operator of a motor vehicle upon receiving written notification from the Cabinet for Health and Family Services that the person has a child support arrearage which equals or exceeds the cumulative amount which would be owed after six (6) months of nonpayment or failure, after receiving appropriate notice, to comply with a subpoena or warrant relating to paternity or child support proceedings, as provided by 42 U.S.C. secs. 651 et seq.; except that any child support arrearage which exists prior to January 1, 1994, shall not be included in the calculation to determine whether the license of an operator of a motor vehicle shall be denied or suspended. The denial or suspension shall continue until the arrearage has been eliminated, payments on the child support arrearage are being made in accordance with a court or administrative order, or the person complies with the subpoena or warrant relating to paternity or child support. Before the license may be reinstated, proof of elimination of the child support arrearage or proof of compliance with the subpoena or warrant relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16) from the court where the action is pending or the Cabinet for Health and Family Services shall be received by the Transportation Cabinet as prescribed by administrative regulations promulgated by the Cabinet for Health and Family Services and the Transportation Cabinet.
- (3) The cabinet or its agent designated in writing for that purpose shall deny any person an operator's license or shall suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state:††
- (a) Where the person has been declared ineligible to operate a motor vehicle under KRS 532.356 for the duration of the ineligibility, upon notification of the court's judgment; *or*
 - (b) *Upon receiving written notification from the Finance and Administration Cabinet, Department of Revenue, that the person is a delinquent taxpayer as provided in Section 2 of this Act. The denial or suspension shall continue until a written tax clearance has been received by the cabinet from the Finance and Administration Cabinet, Department of Revenue. Notwithstanding the provisions of subsection (4) of this section, a person whose license is denied or suspended under this paragraph shall have thirty (30) days from the date the cabinet mails the notice to request a hearing.*

- (4) The cabinet or its agent designated in writing for that purpose shall provide any person subject to the suspension, revocation, or withdrawal of their driving privileges, under provisions of this section, an informal hearing. Upon determining that the action is warranted, the cabinet shall notify the person in writing by mailing the notice to the person by first-class mail to the last known address of the person. The hearing shall be automatically waived if not requested within twenty (20) days after the cabinet mails the notice. The hearing shall be scheduled as early as practical within twenty (20) days after receipt of the request at a time and place designated by the cabinet. An aggrieved party may appeal a decision rendered as a result of an informal hearing, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.
- (5) (a) The cabinet may suspend the operator's license of any resident upon receiving notice of the conviction of that person in another state of an offense there which, if committed in this state, would be grounds for the suspension or revocation of an operator's license. The cabinet shall not suspend an operator's license under this paragraph if:
1. The conviction causing the suspension or revocation is more than five (5) years old;
 2. The conviction is for a traffic offense other than a felony traffic offense or a habitual violator offense; and
 3. The license holder complies with the provisions of KRS 186.442.
- (b) If, at the time of application for an initial Kentucky operator's license, a person's license is suspended or revoked in another state for a conviction that is less than five (5) years old, the cabinet shall deny the person a license until the person resolves the matter in the other state and complies with the provisions of this chapter.
- (c) The cabinet may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws, forward a notice of that person's conviction to the proper officer in the state of which the convicted person is a resident.
- (d) This subsection shall not apply to a commercial driver's license.
- (6) The Transportation Cabinet is forbidden from suspending or revoking an operator's license or assessing points or any other form of penalty against the license holder for speeding violations or speeding convictions from other states. This subsection shall apply only to speeding violations. This section shall not apply to a person who holds or is required to hold a commercial driver's license.
- (7) Each operator's license which has been canceled, suspended, or revoked shall be surrendered to and retained by the cabinet. At the end of the period of cancellation, suspension, or revocation, the license may be returned to the licensee after he has complied with all requirements for the issuance or reinstatement of his driving privilege.
- (8) Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder's driving privilege has been suspended or denied pursuant to subsection (2) of this section.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

- (1) *A county clerk shall not process an application for, nor issue a:*

- (a) *Kentucky registration or renewal of registration;*
- (b) *Replacement plate, decal, or registration certificate;*
- (c) *Duplicate registration;*
- (d) *Transfer of registration; or*
- (e) *Temporary tag;*

for any motor vehicle if AVIS lists the vehicle identification number of the motor vehicle as owned by a delinquent taxpayer as defined in Section 2 of this Act.

- (2) *The county clerk shall not process the applicable application or issue the applicable document until a written tax clearance has been received by the Department of Vehicle Regulation from the Finance and Administration Cabinet, Department of Revenue as provided in Section 2 of this Act.*

- (3) (a) *A person who has been adversely affected by the refusal of a county clerk to process an application or issue a document under this section may request an informal hearing, to be conducted by the Transportation Cabinet or its agency designated in writing for that purpose.*
- (b) *The request for the informal hearing shall be writing and shall be filed with the Transportation Cabinet within thirty (30) days after the county clerk's refusal to process an application or issue a document.*
- (c) *The only matter to be considered at the hearing shall be whether there is a mistake in fact made by the Department of Revenue or the Department of Vehicle Regulation in the determination that the person is a delinquent taxpayer.*
- (4) *This section shall not apply to any transactions involving Kentucky motor vehicle dealers who are licensed under KRS 190.030.*

➔Section 6. KRS 132.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Department" means the Department of Revenue;
- (2) "Taxpayer" means any person made liable by law to file a return or pay a tax;
- (3) "Real property" includes all lands within this state and improvements thereon;
- (4) "Personal property" includes every species and character of property, tangible and intangible, other than real property;
- (5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state;
- (6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent (\$0.001) per one hundred dollars (\$100) of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land;
- (7) "Net assessment growth" means the difference between:
- (a) The total valuation of property subject to taxation by the county, city, school district, or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year, and
- (b) The total valuation of property subject to taxation by the county, city, school district, or special district for the current year;
- (8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:
- (a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction; however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one (1) school district to another;
- (b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;
- (c) The value of improvements to existing nonresidential property;
- (d) The value of new residential improvements to property;
- (e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;

- (f) Property created by the subdivision of unimproved property, provided, that when such property is reclassified from farm to subdivision by the property valuation administrator, the value of such property as a farm shall be a deletion from that category;
 - (g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;
 - (h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that such property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided; and
 - (i) The value of improvements to real property previously under assessment moratorium.
- "Real property deletions" shall be limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year;
- (9) "Agricultural land" means:
 - (a) Any tract of land, including all income-producing improvements, of at least ten (10) contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber;
 - (b) Any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for aquaculture; or
 - (c) Any tract of land devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government;
 - (10) "Horticultural land" means any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers, or ornamental plants;
 - (11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:
 - (a) Relative percentages of tillable land, pasture land, and woodland;
 - (b) Degree of productivity of the soil;
 - (c) Risk of flooding;
 - (d) Improvements to and on the land that relate to the production of income;
 - (e) Row crop capability including allotted crops other than tobacco;
 - (f) Accessibility to all-weather roads and markets; and
 - (g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income;
 - (12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value;
 - (13) "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including but not limited to lawns, drives, flower or vegetable gardens, outbuildings, and all other land connected thereto;
 - (14) "Residential unit" means all or that part of real property occupied as the permanent residence of the owner;
 - (15) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property;
 - (16) "Mobile home" means a structure, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation,

when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure;

- (17) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, and motor home.
- (a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.
 - (b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.
 - (c) Truck camper: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck.
 - (d) Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle;
- (18) "Hazardous substances" shall have the meaning provided in KRS 224.01-400;
- (19) "Pollutant or contaminant" shall have the meaning provided in KRS 224.01-400;
- (20) "Release" shall have the meaning as provided in either or both KRS 224.01-400 and KRS 224.60-115;
- (21) "Qualifying voluntary environmental remediation property" means real property subject to the provisions of KRS 224.01-400 and 224.01-405, or 224.60-135 where the Energy and Environment Cabinet has made a determination that:
- (a) All releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum products at the property occurred prior to the property owner's acquisition of the property;
 - (b) The property owner has made all appropriate inquiry into previous ownership and uses of the property in accordance with generally accepted practices prior to the acquisition of the property;
 - (c) The property owner or a responsible party has provided all legally required notices with respect to hazardous substances, pollutants, contaminants, petroleum, or petroleum products found at the property;
 - (d) The property owner is in compliance with all land use restrictions and does not impede the effectiveness or integrity of any institutional control;
 - (e) The property owner complied with any information request or administrative subpoena under KRS Chapter 224; and
 - (f) The property owner is not affiliated with any person who is potentially liable for the release of hazardous substances, pollutants, contaminants, petroleum, or petroleum products on the property pursuant to KRS 224.01-400, 224.01-405, or 224.60-135, through:
 - 1. Direct or indirect familial relationship;
 - 2. Any contractual, corporate, or financial relationship, excluding relationships created by instruments conveying or financing title or by contracts for sale of goods or services; or
 - 3. Reorganization of a business entity that was potentially liable;
- (22) "Intangible personal property" means stocks, mutual funds, money market funds, bonds, loans, notes, mortgages, accounts receivable, land contracts, cash, credits, patents, trademarks, copyrights, tobacco base, allotments, annuities, deferred compensation, retirement plans, and any other type of personal property that is not tangible personal property;~~and~~
- (23) (a) "County" shall also mean a charter county government;

- (b) "Fiscal court" shall also mean the legislative body of a charter county government;~~and~~
- (c) "County judge/executive" shall also mean the chief executive officer of a charter county government;
and
- (24) (a) ***"Broadcast" means the transmission of audio, video, or other signals, through any electronic, radio, light, or similar medium or method now in existence or later devised over the airwaves to the public in general.***
- (b) ***"Broadcast" shall not apply to operations performed by multichannel video programming service providers as defined in KRS 136.602 or any other operations that transmit audio, video, or other signals, exclusively to persons for a fee.***

➔Section 7. KRS 132.020 is amended to read as follows:

- (1) The owner or person assessed shall pay an annual ad valorem tax for state purposes at the rate of:
 - (a) Thirty-one and one-half cents (\$0.315) upon each one hundred dollars (\$100) of value of all real property directed to be assessed for taxation;
 - (b) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all privately owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, upon the prior approval of the Kentucky Economic Development Finance Authority, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;
 - (c) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all qualifying voluntary environmental remediation property, provided the property owner has corrected the effect of all known releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum products located on the property consistent with a corrective action plan approved by the Energy and Environment Cabinet pursuant to KRS 224.01-400, 224.01-405, or 224.60-135, and provided the cleanup was not financed through a public grant or the petroleum storage tank environmental assurance fund. This rate shall apply for a period of three (3) years following the Energy and Environment Cabinet's issuance of a No Further Action Letter or its equivalent, after which the regular tax rate shall apply;
 - (d) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all tobacco directed to be assessed for taxation;
 - (e) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of unmanufactured agricultural products;
 - (f) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations;
 - (g) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all livestock and domestic fowl;
 - (h) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all tangible personal property located in a foreign trade zone established pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board;
 - (i) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all machinery actually engaged in manufacturing;
 - (j) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all commercial radio ~~and~~ television ~~and telephonic~~ equipment ~~directly~~ used ***to receive, capture, produce, edit, enhance, modify, process, store, convey, or transmit audio or video content or electronic signals which are broadcast over the air*** ~~or associated with electronic equipment which broadcasts electronic signals~~ to an antenna, ***including radio and television towers used to transmit or facilitate the transmission of the signal broadcast and equipment used to gather or transmit weather information, but excluding telephone and cellular communication towers***;
 - (k) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all ***tangible personal*** property which has been certified as a pollution control facility as defined in KRS 224.01-300;

- (l) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390;
 - (m) Twenty-five cents (\$0.25) upon each one hundred dollars (\$100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043;
 - (n) Five cents (\$0.05) upon each one hundred dollars (\$100) of value of goods held for sale in the regular course of business, which includes machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement; and raw materials, which includes distilled spirits and distilled spirits inventory, and in-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business;
 - (o) Ten cents (\$0.10) per one hundred dollars (\$100) of assessed value on the operating property of railroads or railway companies that operate solely within the Commonwealth;
 - (p) One and one-half cents (\$0.015) per one hundred dollars (\$100) of assessed value on aircraft not used in the business of transporting persons or property for compensation or hire;
 - (q) One and one-half cents (\$0.015) per one hundred dollars (\$100) of assessed value on federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes; and
 - (r) Forty-five cents (\$0.45) upon each one hundred dollars (\$100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed, except as provided in KRS 132.030, 132.200, 136.300, and 136.320, providing a different tax rate for particular property.
- (2) Notwithstanding subsection (1)(a) of this section, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent (4%), excluding:
- (a) The assessment of new property as defined in KRS 132.010(8);
 - (b) The assessment from property which is subject to tax increment financing pursuant to KRS Chapter 65; and
 - (c) The assessment from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents (\$0.015) pursuant to subsection (1)(b) of this section. In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.
- (3) By July 1 each year, the department shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (2) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the department shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the department, or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the previous year have been determined to be acceptable by the department, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.
- (4) If the tax rate set by the department as provided in subsection (2) of this section produces more than a four percent (4%) increase in real property tax revenues, excluding:
- (a) The revenue resulting from new property as defined in KRS 132.010(8);
 - (b) The revenue from property which is subject to tax increment financing pursuant to KRS Chapter 65; and
 - (c) The revenue from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents (\$0.015) pursuant to subsection (1) of this section;

the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.

- (5) The provisions of subsection (2) of this section notwithstanding, the assessed value of unmined coal certified by the department after July 1, 1994, shall not be included with the assessed value of other real property in determining the state real property tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also be excluded from the provisions of subsection (2) of this section. The calculated rate shall, however, be applied to unmined coal property, and the state revenue shall be devoted to the program described in KRS 146.550 to 146.570, except that four hundred thousand dollars (\$400,000) of the state revenue shall be paid annually to the State Treasury and credited to the Department for Energy Development and Independence for the purpose of public education of coal-related issues.

➔Section 8. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school, or other taxing district in which it has a taxable situs, except the class of property described in KRS 132.030 and the following classes of property, which shall be subject to taxation for state purposes only:

- (1) Farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operation;
- (2) Livestock, ratite birds, and domestic fowl;
- (3) Capital stock of savings and loan associations;
- (4) Machinery actually engaged in manufacturing, products in the course of manufacture, and raw material actually on hand at the plant for the purpose of manufacture. The printing, publication, and distribution of a newspaper or operating a job printing plant shall be deemed to be manufacturing;
- (5)
 - (a) Commercial radio ~~and~~ television, ~~and telephonic~~ equipment used to receive, capture, produce, edit, enhance, modify, process, store, convey, or transmit audio or video content or electronic signals which are broadcast over the air **to an antenna**;
 - (b) Equipment directly used or associated with the equipment identified in paragraph (a) of this subsection, including radio and television towers used to transmit or facilitate the transmission of the signal broadcast, but excluding telephone and cellular communications towers; and
 - (c) Equipment used to gather or transmit weather information;
- (6) Unmanufactured agricultural products. They shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof, and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents (\$0.015) on each one hundred dollars (\$100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents (\$0.045) on each one hundred dollars (\$100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;
- (7) All privately owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;
- (8) **Tangible personal** property which has been certified as a pollution control facility as defined in KRS 224.01-300;
- (9) Property which has been certified as an alcohol production facility as defined in KRS 247.910;
- (10) On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(9) in determining the amount of county appropriation to the office of the property valuation administrator;
- (11) Tangible personal property located in a foreign trade zone established pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board;
- (12) Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.460;

- (13) Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;
- (14) All motor vehicles held for sale in the inventory of a licensed motor vehicle dealer, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230, and all motor vehicles with a salvage title held by an insurance company;
- (15) Machinery or equipment owned by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes as defined in KRS 139.010;
- (16) New farm machinery and other equipment held in the retailer's inventory for sale under a floor plan financing arrangement by a retailer, as defined under KRS 365.800;
- (17) New boats and new marine equipment held for retail sale under a floor plan financing arrangement by a dealer registered under KRS 235.220;
- (18) Aircraft not used in the business of transporting persons or property for compensation or hire if an exemption is approved by the county, city, school, or other taxing district in which the aircraft has its taxable situs;
- (19) Federally documented vessels not used in the business of transporting persons or property for compensation or hire or for other commercial purposes, if an exemption is approved by the county, city, school, or other taxing district in which the federally documented vessel has its taxable situs;
- (20) Any nonferrous metal that conforms to the quality, shape, and weight specifications set by the New York Mercantile Exchange's special contract rules for metals, and which is located or stored in a commodity warehouse and held on warrant, or for which a written request has been made to a commodity warehouse to place it on warrant, according to the rules and regulations of a trading facility. In this subsection:
 - (a) "Commodity warehouse" means a warehouse, shipping plant, depository, or other facility that has been designated or approved by a trading facility as a regular delivery point for a commodity on contracts of sale for future delivery; and
 - (b) "Trading facility" means a facility that is designated by or registered with the federal Commodity Futures Trading Commission under 7 U.S.C. secs. 1 et seq. "Trading facility" includes the Board of Trade of the City of Chicago, the Chicago Mercantile Exchange, and the New York Mercantile Exchange;
- (21) Qualifying voluntary environmental remediation property for a period of three (3) years following the Energy and Environment Cabinet's issuance of a No Further Action Letter or its equivalent, pursuant to the correction of the effect of all known releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum products located on the property consistent with a corrective action plan approved by the Energy and Environment Cabinet pursuant to KRS 224.01-400, 224.01-405, or 224.60-135, and provided the cleanup was not financed through a public grant program of the petroleum storage tank environmental assurance fund;
- (22) Biotechnology products held in a warehouse for distribution by the manufacturer or by an affiliate of the manufacturer. For the purposes of this section:
 - (a) "Biotechnology products" means those products that are applicable to the prevention, treatment, or cure of a disease or condition of human beings and that are produced using living organisms, materials derived from living organisms, or cellular, subcellular, or molecular components of living organisms. Biotechnology products does not include pharmaceutical products which are produced from chemical compounds;
 - (b) "Warehouse" includes any establishment that is designed to house or store biotechnology products, but does not include blood banks, plasma centers, or other similar establishments; and
 - (c) "Affiliate" means an individual, partnership, or corporation that directly or indirectly owns or controls, or is owned or controlled by, or is under common ownership or control with, another individual, partnership, or corporation.

➔Section 9. KRS 136.120 is amended to read as follows:

- (1) (a) The following public service companies shall pay a tax on their operating property to the state, and to the extent the operating property is subject to local taxation, shall pay a local tax to the county, incorporated city, and taxing district where its operating property is located:
 1. Railway companies;

2. Sleeping car companies;
 3. Chair car companies;
 4. Dining car companies;
 5. Gas companies;
 6. Water companies;
 7. Bridge companies;
 8. Street railway companies;
 9. Interurban electric railroad companies;
 10. Express companies;
 11. Electric light companies;
 12. Electric power companies, *including wind turbine and solar generating companies*;
 13. Commercial air carriers;
 14. Air freight carriers;
 15. Pipeline companies;
 16. Privately owned regulated sewer companies;
 17. Municipal solid waste disposal facilities, as defined by KRS 224.01-010(15), where solid waste is disposed by landfilling;
 18. Railroad car line companies, which means any company, other than a railroad company, which owns, uses, furnishes, leases, rents, or operates to, from, through, in, or across this state or any part thereof, any kind of railroad car including, but not limited to, flat, tank, refrigerator, passenger, or similar type car; and
 19. Every other like company or business performing any public service.
- (b) The following companies shall not be subject to the provisions of paragraph (a) of this subsection:
1. Bus line companies;
 2. Regular and irregular route common carrier trucking companies;
 3. Taxicab companies;
 4. Providers of communications service as defined in KRS 136.602;
 5. Providers of multichannel video programming services as defined in KRS 136.602; and
 6. A qualified air freight forwarder as defined in KRS 141.121.
- (2) (a) The property of the taxpayers shall be classified as operating property, nonoperating tangible property, and nonoperating intangible property.
- (b) Nonoperating intangible property within the taxing jurisdiction of the Commonwealth shall be taxable for state purposes only at the same rate as the intangible property of other taxpayers not performing public services.
- (c) Operating property and nonoperating tangible property shall be subject to state and local taxes at the same rate as the tangible property of other taxpayers not performing public services.
- (3) (a) The Department of Revenue shall:
1. Have sole power to value and assess all of the property of every corporation, company, association, partnership, or person performing any public service, including those enumerated above and all others to whom this section may apply, whether or not the operating property, nonoperating tangible property, or nonoperating intangible property has previously been assessed by the department;
 2. Allocate the assessment as provided by KRS 136.170; and

3. Certify operating property subject to local taxation and nonoperating tangible property to the counties, cities, and taxing districts as provided in KRS 136.180.
- (b) All of the property assessed by the department pursuant to this section shall be assessed as of December 31 each year for the following year's taxes, and the lien on the property shall attach as of the assessment date.
- (c) In the case of a taxpayer whose business is predominantly nonpublic service and the public service business in which he is engaged is merely incidental to his principal business, the department shall in the exercise of its judgment and discretion determine, from evidence which it may have or obtain, what portion of the operating property is devoted to the public service business subject to assessment by the department under this section and shall require the remainder of the property not so engaged to be assessed by the local taxing authorities.

➔Section 10. KRS 138.4602 is amended to read as follows:

- (1) (a) Effective for sales on or after September 1, 2009, *and before July 1, 2014*, of:
 1. New motor vehicles;
 2. Dealer demonstrator vehicles;
 3. Previous model year motor vehicles; and
 4. U-Drive-It motor vehicles that have been transferred within one hundred eighty (180) days of being registered as a U-Drive-It and that have less than five thousand (5,000) miles;

the retail price shall be determined by reducing the amount of total consideration given by the trade-in allowance of any motor vehicle traded in by the buyer. The value of the purchased motor vehicle and the amount of the trade-in allowance shall be determined as provided in subsection (2) of this section, and the availability of the trade-in allowance shall be subject to subsection (3) of this section.
- (b) The retail price shall not include that portion of the price of the vehicle attributable to equipment or adaptive devices necessary to facilitate or accommodate an operator or passenger with physical disabilities.
- (2) (a) The value of the purchased motor vehicle offered for registration and the value of the vehicle offered in trade shall be attested to in a notarized affidavit, provided that the retail price established by the notarized affidavit shall not be less than fifty percent (50%) of the difference between the applicable value of the purchased motor vehicle, as determined under the method described in paragraph (b) of this subsection, and the trade-in value of any motor vehicle offered in trade, as established by the reference manual.
- (b) If a notarized affidavit is not available:
 1. The retail price of the purchased motor vehicle offered for registration shall be determined as follows:
 - a. Ninety percent (90%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges; or
 - b. Eighty-one percent (81%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges in the case of new trucks of gross weight in excess of ten thousand (10,000) pounds; and
 2. The value of the vehicle offered in trade shall be the trade-in value, as established by the reference manual.
- (3) (a) The trade-in allowance permitted by subsection (1) of this section shall be for motor vehicles purchased between September 1, 2009, and ending June 30, 2011. The total amount of reduced tax receipts related to the trade-in allowance shall be subject to a cap of twenty-five million dollars (\$25,000,000). The trade-in allowance shall be available on a first-come, first-served basis. Implementation and application of the cap shall be determined by the department through the promulgation of an administrative regulation in accordance with KRS Chapter 13A.
- (b) The administrative regulation shall include:

1. A method for new vehicle dealers and county clerks to determine the amount of the new vehicle credit cap at any point in time during the year; and
 2. A notification process to all county clerks when the new vehicle credit cap has been reached during the year.
- (4) When the cap established by subsection (3) of this section has been reached, or for all motor vehicles purchased after June 30, 2011, **and before July 1, 2014**, the retail price of all motor vehicles listed in subsection (1) of this section shall be:
- (a) The total consideration given, including any trade-in allowance, as attested in a notarized affidavit; or
 - (b) If a notarized affidavit is not available, the retail price of the motor vehicle offered for registration shall be determined as follows:
 1. Ninety percent (90%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges; or
 2. Eighty-one percent (81%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges in the case of new trucks of gross weight in excess of ten thousand (10,000) pounds.

The retail price shall not include that portion of the price of the vehicle attributable to equipment or adaptive devices necessary to facilitate or accommodate an operator or passenger with physical disabilities.

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

- (1) (a) ***Effective for sales on or after July 1, 2014, of:***
1. ***New motor vehicles;***
 2. ***Dealer demonstrator vehicles;***
 3. ***Previous model year motor vehicles; and***
 4. ***U-Drive-It motor vehicles that have been transferred within one hundred eighty (180) days of being registered as a U-Drive-It and that have less than five thousand (5,000) miles;***
- the retail price shall be determined by reducing the amount of total consideration given by the trade-in allowance of any motor vehicle traded in by the buyer. The value of the purchased motor vehicle and the amount of the trade-in allowance shall be determined as provided in subsection (2) of this section.***
- (b) ***The retail price shall not include that portion of the price of the vehicle attributable to equipment or adaptive devices necessary to facilitate or accommodate an operator or passenger with physical disabilities.***
- (2) (a) ***The value of the purchased motor vehicle offered for registration and the value of the vehicle offered in trade shall be attested to in a notarized affidavit, provided that the retail price established by the notarized affidavit shall not be less than fifty percent (50%) of the difference between the applicable value of the purchased motor vehicle, as determined under the method described in paragraph (b) of this subsection, and the trade-in value of any motor vehicle offered in trade, as established by the reference manual.***
- (b) ***If a notarized affidavit is not available:***
1. ***The retail price of the purchased motor vehicle offered for registration shall be determined as follows:***
 - a. ***Ninety percent (90%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges; or***
 - b. ***Eighty-one percent (81%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges in the case of new trucks of gross weight in excess of ten thousand (10,000) pounds; and***

2. *The value of the vehicle offered in trade shall be the trade-in value, as established by the reference manual.*

➔Section 12. KRS 139.450 is amended to read as follows:

- (1) It shall be presumed that tangible personal property shipped or brought to this state by the purchaser was purchased from a retailer for storage, use, or other consumption in this state.
- (2) (a) *Except as provided in subsection (8) of this section, every retailer that:*
1. *Is making sales of tangible personal property or digital property from a place outside this state for storage, use, or other consumption in this state; and*
 2. *Is not required to collect the use tax under KRS 139.340;*
- shall notify the purchaser that the purchaser is required to report and pay the Kentucky use tax directly to the department on purchases from that retailer unless the purchases are otherwise exempt under this chapter.*
- (b) *The required use tax notification shall be readily visible and shall be included on the retailer's Internet Web site, retail catalog, and invoices provided to the purchaser, as provided in subsection (4) of this section.*
- (c) *A retailer shall not advertise, state, display, or imply on the retailer's Internet Web site or retail catalog that there is no Kentucky tax due on the purchases made from the retailer.*
- (3) *The use tax notification required by subsection (2) of this section shall contain the following language:*
- (a) *"The retailer is not required to and does not collect Kentucky sales or use tax.";*
 - (b) *"The purchase may be subject to Kentucky use tax unless the purchase is exempt from taxation in Kentucky.";*
 - (c) *"The purchase is not exempt merely because it is made over the Internet, by catalog, or by other remote means."; and*
 - (d) *"The Commonwealth of Kentucky requires Kentucky purchasers to report all purchases of tangible personal property or digital property that are not taxed by the retailer and pay use tax on those purchases unless exempt under Kentucky law. The tax may be reported and paid on the Kentucky individual income tax return or by filing a consumer use tax return with the Kentucky Department of Revenue. These forms and corresponding instructions may be found on the Kentucky Department of Revenue's Internet Web site.".*
- (4) *Except as provided in subsection (5) of this section, the retailer shall include the exact required use tax notification language provided in subsection (3) of this section on the:*
- (a) *Internet Web site page necessary to facilitate an online sales transaction;*
 - (b) *Electronic order confirmation or, if an electronic order confirmation is not issued, the required use tax notification shall be included on the purchase order, invoice, bill, receipt, sales slip, order form, or packing statement; and*
 - (c) *Catalog order form, purchase order, invoice, bill, receipt, sales slip, or packing statement.*
- (5) *If the retailer provides a prominent reference to a supplemental page in the retailer's catalog or on the retailer's Internet Web site, or provides a prominent electronic linking notice on the retailers' Internet Web site, that states, "See important Kentucky sales and use tax information regarding tax you may owe directly to the Commonwealth of Kentucky.", and that supplemental page or electronic link contains the required use tax notification language as provided in subsection (3) of this section, the retailer is relieved from the requirements of subsection (4) of this section.*
- (6) *If the retailer is required to provide a similar use tax notification for another state in addition to the use tax notification required by this section, the retailer may provide a consolidated notification if the consolidated notification meets the requirements of this section.*
- (7) *Except for the notification requirement on invoices in subsection (4)(c) of this section, subsections (2) to (8) of this section shall also apply to online auction Web sites. For purposes of this section, "online auction Web site" means a collection of Internet Web pages that allows persons to display tangible personal*

property or digital property for sale that is purchased through a competitive process where participants place bids with the highest bidder purchasing the item when the bidding period ends.

- (8) *Any retailer that made total gross sales of less than one hundred thousand dollars (\$100,000) to Kentucky residents or businesses located in Kentucky, and that reasonably expects that its Kentucky sales in the current calendar year will be less than one hundred thousand dollars (\$100,000), shall be exempt from subsections (2) to (8) of this section.*

➔Section 13. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

- (1) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property or digital property which this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;
- (2) Gross receipts from sales of, and the storage, use, or other consumption in this state of:
 - (a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and
 - (b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

- (3) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property used for the performance of a lump-sum, fixed-fee contract of public works executed prior to February 5, 1960;
- (4) Gross receipts from occasional sales of tangible personal property or digital property and the storage, use, or other consumption in this state of tangible personal property or digital property, the transfer of which to the purchaser is an occasional sale;
- (5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the retailer via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;
- (6) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if the sale amounts to fifty cents (\$0.50) or less, if the retailer is primarily engaged in making the sales and maintains records satisfactory to the department. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;
- (7) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities, or special districts as defined in KRS 65.005. This exemption shall apply only to purchases of tangible personal property, digital property, or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants;
- (8)
 - (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include but not be limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood. Determinations of eligibility for the exemption shall be made by the Department of Revenue;
 - (b) In making the determinations of eligibility, the department shall exempt from taxation all gross receipts derived from sales:
 1. Classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the Public Service Commission;
 2. Classified as "residential" by a municipally owned electric distributor which purchases its power at wholesale from the Tennessee Valley Authority;

3. Classified as "residential" by the governing body of a municipally owned electric distributor which does not purchase its power from the Tennessee Valley Authority, if the "residential" classification is reasonably consistent with the definitions of "residential" contained in tariff filings accepted and approved by the Public Service Commission with respect to utilities which are subject to Public Service Commission regulation.

If the service is classified as residential, use other than for "residential" purposes by the customer shall not negate the exemption;

- (c) The exemption shall not apply if charges for sewer service, water, and fuel are billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park other than residential classification; and
- (d) The exemption shall apply also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years;
- ~~(9) Any rate increase for school taxes and any other charges or surcharges added to the total amount of a residential telecommunications service. For purposes of this section, "residential telecommunications service" means a telecommunications service as defined in KRS 139.195 or an ancillary service as defined in KRS 139.195 provided to:~~
- ~~(a) An individual for personal use at a residential address, including an individual dwelling unit such as an apartment; or~~
- ~~(b) An individual residing in an institution such as a school or nursing home if the service is paid for by an individual resident rather than the institution;~~
- ~~(10)~~ Gross receipts from sales to an out-of-state agency, organization, or institution exempt from sales and use tax in its state of residence when that agency, organization, or institution gives proof of its tax-exempt status to the retailer and the retailer maintains a file of the proof;
- ~~(10)~~~~(11)~~ Gross receipts derived from the sale of, and the storage, use, or other consumption in this state of, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property at a plant facility and which will be for sale. The property shall be regarded as having been purchased for resale. "Plant facility" shall have the same meaning as defined in KRS 139.010. For purposes of this subsection, a manufacturer or industrial processor includes an individual or business entity that performs only part of the manufacturing or industrial processing activity and the person or business entity need not take title to tangible personal property that is incorporated into, or becomes the product of, the activity.
- (a) Industrial processing includes refining, extraction of petroleum and natural gas, mining, quarrying, fabricating, and industrial assembling. As defined herein, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale shall mean:
1. Materials which enter into and become an ingredient or component part of the manufactured product;
 2. Other tangible personal property which is directly used in manufacturing or industrial processing, if the property has a useful life of less than one (1) year. Specifically these items are categorized as follows:
 - a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below.
 - b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts, dyes, refrigerants, explosives, etc. The supplies indicated above need not come in direct contact with a manufactured product to be exempt. "Supplies" does not include repair, replacement, or spare parts of any kind.
 - c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, spray guns, etc., and to tools attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, cutting blades, etc. Normally, for industrial tools to be considered directly used in manufacturing, they shall come into direct contact with the product being manufactured; and

3. Materials and supplies that are not reusable in the same manufacturing process at the completion of a single manufacturing cycle, excluding repair, replacement, or spare parts of any kind. A single manufacturing cycle shall be considered to be the period elapsing from the time the raw materials enter into the manufacturing process until the finished product emerges at the end of the manufacturing process.
 - (b) It shall be noted that in none of the three (3) categories is any exemption provided for repair, replacement, or spare parts. Repair, replacement, or spare parts shall not be considered to be materials, supplies, or industrial tools directly used in manufacturing or industrial processing. "Repair, replacement, or spare parts" shall have the same meaning as set forth in KRS 139.010;
- ~~(11)~~~~(12)~~ Any water use fee paid or passed through to the Kentucky River Authority by facilities using water from the Kentucky River basin to the Kentucky River Authority in accordance with KRS 151.700 to 151.730 and administrative regulations promulgated by the authority;
- ~~(12)~~~~(13)~~ Gross receipts from the sale of newspaper inserts or catalogs purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is retailer's shipping point or purchaser's destination.
 - (a) As used in this subsection:
 1. "Catalogs" means tangible personal property that is printed to the special order of the purchaser and composed substantially of information regarding goods and services offered for sale; and
 2. "Newspaper inserts" means printed materials that are placed in or distributed with a newspaper of general circulation.
 - (b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the department;
- ~~(13)~~~~(14)~~ Gross receipts from the sale of water used in the raising of equine as a business;
- ~~(14)~~~~(15)~~ Gross receipts from the sale of metal retail fixtures manufactured in this state and purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or the purchaser's destination.
 - (a) As used in this subsection, "metal retail fixtures" means check stands and belted and nonbelted checkout counters, whether made in bulk or pursuant to specific purchaser specifications, that are to be used directly by the purchaser or to be distributed by the purchaser.
 - (b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the department;
- ~~(15)~~~~(16)~~ Gross receipts from the sale of unenriched or enriched uranium purchased for ultimate storage, use, or other consumption outside this state and delivered to a common carrier in this state for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer, or is an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or purchaser's destination;
- ~~(16)~~~~(17)~~ Amounts received from a tobacco buydown. As used in this subsection, "buydown" means an agreement whereby an amount, whether paid in money, credit, or otherwise, is received by a retailer from a manufacturer or wholesaler based upon the quantity and unit price of tobacco products sold at retail that requires the retailer to reduce the selling price of the product to the purchaser without the use of a manufacturer's or wholesaler's coupon or redemption certificate;
- ~~(17)~~~~(18)~~ Gross receipts from the sale of tangible personal property or digital property returned by a purchaser when the full sales price is refunded either in cash or credit. This exclusion shall not apply if the purchaser, in order to obtain the refund, is required to purchase other tangible personal property or digital property at a price greater than the amount charged for the property that is returned;
- ~~(18)~~~~(19)~~ Gross receipts from the sales of gasoline and special fuels subject to tax under KRS Chapter 138;

- ~~(19)~~~~(20)~~ The amount of any tax imposed by the United States upon or with respect to retail sales, whether imposed on the retailer or the consumer, not including any manufacturer's excise or import duty;
- ~~(20)~~~~(21)~~ Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which is:
- (a) Sold to a Kentucky resident, registered for use on the public highways, and upon which any applicable tax levied by KRS 138.460 has been paid; or
 - (b) Sold to a nonresident of Kentucky if the nonresident registers the motor vehicle in a state that:
 1. Allows residents of Kentucky to purchase motor vehicles without payment of that state's sales tax at the time of sale; or
 2. Allows residents of Kentucky to remove the vehicle from that state within a specific period for subsequent registration and use in Kentucky without payment of that state's sales tax;
- ~~(21)~~~~(22)~~ Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and trailer as defined in KRS 189.010(17); and
- ~~(22)~~~~(23)~~ Gross receipts from the first fifty thousand dollars (\$50,000) in sales of admissions to county fairs held in Kentucky in any calendar year by a nonprofit county fair board.

➔Section 14. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

- (1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;
- (2) Coal for the manufacture of electricity;
- (3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining and any related distribution, transmission, and transportation services for this energy that are billed to the user, to the extent that the cost of the energy or energy-producing fuels used, and related distribution, transmission, and transportation services for this energy that are billed to the user exceed three percent (3%) of the cost of production. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;
- (4) Livestock of a kind the products of which ordinarily constitute food for human consumption, provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;
- (5) Poultry for use in breeding or egg production;
- (6) Farm work stock for use in farming operations;
- (7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be used only by those persons designated above who are so purchasing;
- (8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry, the products of which ordinarily constitute food for human consumption;
- (9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;
- (10) Machinery for new and expanded industry;
- (11) Farm machinery. As used in this section, the term "farm machinery":
 - (a) Means machinery used exclusively and directly in the occupation of:
 - I. Tilling the soil for the production of crops as a business;~~[-, or in the occupation of]~~

2. Raising and feeding livestock or poultry *for sale*; or ~~of~~
 3. Producing milk for sale; *and* ~~The term "farm machinery," as used in this section~~
- (b) Includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used, *including but not limited to combine header wagons, combine header trailers, or any other implements specifically designed and used to move or transport a combine head*; *and*~~but this exemption shall~~
- (c) *Does* not include:
1. Automobiles;~~;~~
 2. Trucks;~~;~~
 3. Trailers, *except combine header trailers*; or~~and~~
 4. Truck-trailer combinations;
- (12) Property which has been certified as a pollution control facility as defined in KRS 224.01-300, and all materials, supplies, and repair and replacement parts purchased for use in the operation or maintenance of the facilities used specifically in the steel-making process. The exemption provided in this subsection for materials, supplies, and repair and replacement parts purchased for use in the operation of pollution control facilities shall be effective for sales made through June 30, 1994;
- (13) Tombstones and other memorial grave markers;
- (14) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (15) On-farm facilities used exclusively for raising poultry or livestock. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply but not be limited to vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (16) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively and directly to:
- (a) Operate farm machinery as defined in subsection (11) of this section;
 - (b) Operate on-farm grain or soybean drying facilities as defined in subsection (14) of this section;
 - (c) Operate on-farm poultry or livestock facilities defined in subsection (15) of this section;
 - (d) Operate on-farm ratite facilities defined in subsection (24) of this section;
 - (e) Operate on-farm llama or alpaca facilities as defined in subsection (26) of this section; or
 - (f) Operate on-farm dairy facilities;
- (17) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;
- (18) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;
- (19) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;
- (20) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

- (21) Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures. The exemption provided in this subsection shall be effective for sales made through June 30, 1994;
- (22) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program;
- (23) Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes;
- (24) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-products, and the following items used in this agricultural pursuit:
 - (a) Feed and feed additives;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
 - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to incubation systems, egg processing equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (25) Embryos and semen that are used in the reproduction of livestock, if the products of these embryos and semen ordinarily constitute food for human consumption, and if the sale is made to a person engaged in the business of farming;
- (26) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for the breeding and production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products, and the following items used in this pursuit:
 - (a) Feed and feed additives;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and
 - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (27) Baling twine and baling wire for the baling of hay and straw;
- (28) Water sold to a person regularly engaged in the business of farming and used in the:
 - (a) Production of crops;
 - (b) Production of milk for sale; or
 - (c) Raising and feeding of:
 - 1. Livestock or poultry, the products of which ordinarily constitute food for human consumption; or
 - 2. Ratites, llamas, alpacas, buffalo, cervids or aquatic organisms;
- (29) Buffalos to be used as beasts of burden or in an agricultural pursuit for the production of hides, breeding stock, meat, and buffalo by-products, and the following items used in this pursuit:
 - (a) Feed and feed additives;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

- (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (30) Aquatic organisms sold directly to or raised by a person regularly engaged in the business of producing products of aquaculture, as defined in KRS 260.960, for sale, and the following items used in this pursuit:
- (a) Feed and feed additives;
 - (b) Water;
 - (c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and
 - (d) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities and, any gasoline, special fuels, liquefied petroleum gas, or natural gas used to operate the facilities. The exemption shall apply, but not be limited to: waterer and feeding systems; ventilation, aeration, and heating systems; processing and storage systems; production systems such as ponds, tanks, and raceways; harvest and transport equipment and systems; and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (31) Members of the genus cervidae permitted by KRS Chapter 150 that are used for the production of hides, breeding stock, meat, and cervid by-products, and the following items used in this pursuit:
- (a) Feed and feed additives;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and
 - (c) On-site facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (32) (a) Repair or replacement parts for the direct operation or maintenance of a motor vehicle, including any towed unit, used exclusively in interstate commerce for the conveyance of property or passengers for hire, provided the motor vehicle is licensed for use on the highway and its declared gross vehicle weight with any towed unit is forty-four thousand and one (44,001) pounds or greater. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;
- (b) Repair or replacement parts for the direct operation and maintenance of a motor vehicle operating under a charter bus certificate issued by the Transportation Cabinet under KRS Chapter 281, or under similar authority granted by the United States Department of Transportation; and
- (c) For the purposes of this subsection, "repair and replacement parts" means tires, brakes, engines, transmissions, drive trains, chassis, body parts, and their components. "Repair and replacement parts" shall not include fuel, machine oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not essential to the operation of the motor vehicle itself, except when sold as part of the assembled unit, such as cigarette lighters, radios, lighting fixtures not otherwise required by the manufacturer for operation of the vehicle, or tool or utility boxes; and
- (33) Food donated by a retail food establishment or any other entity regulated under KRS 217.127 to a nonprofit organization for distribution to the needy.
- ➔Section 15. KRS 139.570 is amended to read as follows:
- (1) (a) For reimbursement of the cost of collecting and remitting the tax, the seller shall deduct on each return one and three-quarters percent (1.75%) of the first one thousand dollars (\$1,000) of tax due and one **and one-half** percent (**1.5%**)[~~(1%)~~] of the tax due in excess of one thousand dollars (\$1,000), provided the amount due is not delinquent at the time of payment.

(b) The total reimbursement allowed for each seller in any reporting period shall not exceed *fifty dollars* ~~(\$50) [one thousand five hundred dollars (\$1,500)]~~.

- (2) Notwithstanding subsection (1) of this section, the rate of compensation for taxes collected or returns filed by certified service providers and other model sellers participating in the agreement as defined in KRS 139.781 shall be determined according to the terms of the agreement as provided in KRS 139.789(7).

➔Section 16. KRS 141.020 is amended to read as follows:

- (1) An annual tax shall be paid for each taxable year by every resident individual of this state upon his entire net income as defined in this chapter. The tax shall be determined by applying the rates in subsection (2) of this section to net income and subtracting allowable tax credits provided in subsection (3) of this section.
- (2) (a) For taxable years beginning before January 1, 2005, the tax shall be determined by applying the following rates to net income:
1. Two percent (2%) of the amount of net income up to three thousand dollars (\$3,000);
 2. Three percent (3%) of the amount of net income over three thousand dollars (\$3,000) and up to four thousand dollars (\$4,000);
 3. Four percent (4%) of the amount of net income over four thousand dollars (\$4,000) and up to five thousand dollars (\$5,000);
 4. Five percent (5%) of the amount of net income over five thousand dollars (\$5,000) and up to eight thousand dollars (\$8,000); and
 5. Six percent (6%) of the amount of net income over eight thousand dollars (\$8,000).
- (b) For taxable years beginning after December 31, 2004, the tax shall be determined by applying the following rates to net income:
1. Two percent (2%) of the amount of net income up to three thousand dollars (\$3,000);
 2. Three percent (3%) of the amount of net income over three thousand dollars (\$3,000) and up to four thousand dollars (\$4,000);
 3. Four percent (4%) of the amount of net income over four thousand dollars (\$4,000) and up to five thousand dollars (\$5,000);
 4. Five percent (5%) of the amount of net income over five thousand dollars (\$5,000) and up to eight thousand dollars (\$8,000);
 5. Five and eight-tenths percent (5.8%) of the amount of net income over eight thousand dollars (\$8,000) and up to seventy-five thousand dollars (\$75,000); and
 6. Six percent (6%) of the amount of net income over seventy-five thousand dollars (\$75,000).
- (3) (a) ***For taxable years beginning before January 1, 2014***, the following tax credits, when applicable, shall be deducted from the result obtained under subsection (2) ***of this section*** to arrive at the annual tax:
1. ~~(a)~~ Twenty dollars (\$20) for an unmarried individual;
 2. ~~(b)~~ Twenty dollars (\$20) for a married individual filing a separate return and an additional twenty dollars (\$20) for the spouse of taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or forty dollars (\$40) for married persons filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of marital status for the purpose of this section shall be made in the manner prescribed in Section 153 of the Internal Revenue Code;
 3. ~~(c)~~ Twenty dollars (\$20) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his spouse;
 4. ~~(d)~~ An additional forty dollars (\$40) credit if the taxpayer has attained the age of sixty-five (65) before the close of the taxable year;
 5. ~~(e)~~ An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse has attained the age of sixty-five (65) before the close of

the taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;

- ~~6. (f)~~ An additional forty dollars (\$40) credit if the taxpayer is blind at the close of the taxable year;
 - ~~7. (g)~~ An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse is blind, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;
 - ~~8. (h)~~ In the case of nonresidents, the tax credits allowable under this subsection shall be the portion of the credits that are represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.010(10), without the adjustments contained in (f) and (g) of that subsection, to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code. However, in the case of a married nonresident taxpayer with income from Kentucky sources, whose spouse has no income from Kentucky sources, the taxpayer shall determine allowable tax credit(s) by either:
 - ~~a. (1)~~ The method contained above applied to the taxpayer's tax credit(s), excluding credits for a spouse and dependents; or
 - ~~b. (2)~~ Prorating the taxpayer's tax credit(s) plus the tax credits for the taxpayer's spouse and dependents by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.010(10), without the adjustments contained in (f) and (g) of that subsection, to the total joint federal adjusted gross income of the taxpayer and the taxpayer's spouse;
 - ~~9. (i)~~ In the case of an individual who becomes a resident of Kentucky during the taxable year, the tax credits allowable under this subsection shall be the portion of the credits represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by subsection (10) of KRS 141.010, without the adjustments contained in paragraphs (f) and (g) of that subsection, to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code;
 - ~~10. (j)~~ In the case of a fiduciary, other than an estate, the allowable tax credit shall be two dollars (\$2);
 - ~~11. (k)~~ In the case of an estate, the allowable tax credit shall be twenty dollars (\$20); *and*
 - ~~12. (l)~~ An additional twenty dollars (\$20) credit shall be allowed if the taxpayer is a member of the Kentucky National Guard at the close of the taxable year.
- (b) **1. For taxable years beginning on or after January 1, 2014, the following tax credits, when applicable, shall be deducted from the result obtained under subsection (2) of this section to arrive at the annual tax:**
- a. Ten dollars (\$10) for an unmarried individual;**
 - b. Ten dollars (\$10) for a married individual filing a separate return and an additional ten dollars (\$10) for the spouse of taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or twenty dollars (\$20) for married persons filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of marital status for the purpose of this section shall be made in the manner prescribed in Section 153 of the Internal Revenue Code;**
 - c. Ten dollars (\$10) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his spouse;**
 - d. An additional forty dollars (\$40) credit if the taxpayer has attained the age of sixty-five (65) before the close of the taxable year;**
 - e. An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse has attained the age of sixty-five (65) before the close of the taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;**

- f. *An additional forty dollars (\$40) credit if the taxpayer is blind at the close of the taxable year;*
 - g. *An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse is blind, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;*
 - h. *In the case of a fiduciary, other than an estate, the allowable tax credit shall be two dollars (\$2);*
 - i. *In the case of an estate, the allowable tax credit shall be ten dollars (\$10); and*
 - j. *An additional twenty dollars (\$20) credit shall be allowed if the taxpayer is a member of the Kentucky National Guard at the close of the taxable year.*
2. *In the case of nonresidents, the tax credits allowable under this subsection shall be the portion of the credits that are represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.010(10), without the adjustments contained in paragraphs (f) and (g) of that subsection, to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code. However, in the case of a married nonresident taxpayer with income from Kentucky sources, whose spouse has no income from Kentucky sources, the taxpayer shall determine allowable tax credit(s) by either:*
- a. *The method contained above applied to the taxpayer's tax credit(s), excluding credits for a spouse and dependents; or*
 - b. *Prorating the taxpayer's tax credit(s) plus the tax credits for the taxpayer's spouse and dependents by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.010(10), without the adjustments contained in paragraphs (f) and (g) of that subsection, to the total joint federal adjusted gross income of the taxpayer and the taxpayer's spouse.*
3. *In the case of an individual who becomes a resident of Kentucky during the taxable year, the tax credits allowable under this subsection shall be the portion of the credits represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.010(10), without the adjustments contained in paragraphs (f) and (g) of that subsection, to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code.*
- (4) An annual tax shall be paid for each taxable year as specified in this section upon the entire net income except as herein provided, from all tangible property located in this state, from all intangible property that has acquired a business situs in this state-, and from business, trade, profession, occupation, or other activities carried on in this state, by natural persons not residents of this state. A nonresident individual shall be taxable only upon the amount of income received by the individual from labor performed, business done, or from other activities in this state, from tangible property located in this state, and from intangible property which has acquired a business situs in this state; provided, however, that the situs of intangible personal property shall be at the residence of the real or beneficial owner and not at the residence of a trustee having custody or possession thereof. The remainder of the income received by such nonresident shall be deemed nontaxable by this state.
- (5) Subject to the provisions of KRS 141.081, any individual may elect to pay the annual tax imposed by KRS 141.023 in lieu of the tax levied under this section.
- (6) An individual who becomes a resident of Kentucky during the taxable year is subject to taxation as prescribed in subsection (4) of this section prior to establishing~~such~~ residence and as prescribed in subsection (1) of this section following the establishment of~~such~~ residence.
- (7) An individual who becomes a nonresident of Kentucky during the taxable year is subject to taxation, as prescribed in subsection (1) of this section, during that portion of the taxable year that the individual is a resident and, as prescribed in subsection (4) of this section, during that portion of the taxable year when the individual is a nonresident.

➔Section 17. KRS 141.205 is amended to read as follows:

- (1) As used in this section:

- (a) "Intangible property" means franchises, patents, patent applications, trade names, trademarks, service marks, copyrights, trade secrets, and similar types of intangible assets;
- (b) "Intangible expenses" includes the following only to the extent that the amounts are allowed as deductions or costs in determining taxable net income before the application of any net operating loss deduction provided under Chapter 1 of the Internal Revenue Code:
 - 1. Expenses, losses, and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property;
 - 2. Losses related to, or incurred in connection directly or indirectly with, factoring transactions or discounting transactions;
 - 3. Royalty, patent, technical, and copyright fees;
 - 4. Licensing fees; and
 - 5. Other similar expenses and costs;
- (c) "Intangible interest expense" means only those amounts which are directly or indirectly allowed as deductions under Section 163 of the Internal Revenue Code for purposes of determining taxable income under that code, to the extent that the amounts are directly or indirectly for, related to, or connected to the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property;
- (d) "Management fees" includes but is not limited to expenses and costs paid for services pertaining to accounts receivable and payable, employee benefit plans, insurance, legal, payroll, data processing, purchasing, tax, financial and securities, accounting, reporting and compliance services or similar services, only to the extent that the amounts are allowed as a deduction or cost in determining taxable net income before application of the net operating loss deduction for the taxable year provided under Chapter 1 of the Internal Revenue Code;
- (e) "Affiliated group" has the same meaning as provided in KRS 141.200;
- (f) "Foreign corporation" means a corporation that is organized under the laws of a country other than the United States and that would be a related member if it were a domestic corporation;
- (g) "Related member" means a person that, with respect to the entity during all or any portion of the taxable year, is:
 - 1. A person or entity that has, directly or indirectly, at least fifty percent (50%) of the equity ownership interest in the taxpayer, as determined under Section 318 of the Internal Revenue Code;
 - 2. A component member as defined in Section 1563(b) of the Internal Revenue Code;
 - 3. A person to or from whom there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code; or
 - 4. A person that, notwithstanding its form of organization, bears the same relationship to the taxpayer as a person described in subparagraphs 1. to 3. of this paragraph;
- (h) "Recipient" means a related member or foreign corporation to whom the item of income that corresponds to the intangible interest expense, the intangible expense, or the management fees, is paid;
- (i) "Unrelated party" means a person that has no direct, indirect, beneficial or constructive ownership interest in the recipient; and in which the recipient has no direct, indirect, beneficial or constructive ownership interest;
- (j) "Disclosure" means that the entity shall provide the following information to the Department of Revenue with its tax return regarding a related party transaction:
 - 1. The name of the recipient;
 - 2. The state or country of domicile of the recipient;
 - 3. The amount paid to the recipient; and
 - 4. A description of the nature of the payment made to the recipient;

- (k) "Other related party transaction" means a transaction which:
1. Is undertaken by an entity which was not required to file a consolidated return under KRS 141.200;
 2. Is undertaken by an entity, directly or indirectly, with one (1) or more of its stockholders, members, partners, or affiliated entities; and
 3. Is not within the scope of subsections (2) to (5) of this section;
- (l) "Related party costs" means intangible expense, intangible interest expense, management fees and any costs or expenses associated with other related party transactions; and
- (m) "Entity" means any taxpayer other than a natural person.
- (2) An entity subject to the tax imposed by this chapter shall not be allowed to deduct an intangible expense, ~~an~~ ~~or~~ intangible interest expense, **or a management fee** directly or indirectly paid, accrued or incurred to, or in connection directly or indirectly with one (1) or more direct or indirect transactions with one (1) or more related members or with a foreign corporation as defined in subsection (1) of this section, or with an entity that would be included in the affiliated group based upon ownership interest if it were organized as a corporation.
- (3) The disallowance of deductions provided by subsection (2) of this section shall not apply if:
- (a) The entity and the recipient are both included in the same consolidated Kentucky corporation income tax return for the relevant taxable year; or
 - (b) The entity makes a disclosure, and establishes by a preponderance of the evidence that:
 1. The payment made to the recipient was subject to, in its state or country of commercial domicile, a net income tax, or a franchise tax measured by, in whole or in part, net income. If the recipient is a foreign corporation, the foreign nation shall have in force a comprehensive income tax treaty with the United States; and
 2. The recipient is engaged in substantial business activities separate and apart from the acquisition, use, licensing, management, ownership, sale, exchange, or any other disposition of intangible property, or in the financing of related members, as evidenced by the maintenance of permanent office space and full-time employees dedicated to the maintenance and protection of intangible property; and
 3. The transaction giving rise to the intangible interest expense, ~~or the~~ intangible expense, **or management fees** between the entity and the recipient was made at a commercially reasonable rate and at terms comparable to an arm's-length transaction; or
 - (c) The entity makes a disclosure, and establishes by preponderance of the evidence that the recipient regularly engages in transactions with one (1) or more unrelated parties on terms identical to that of the subject transaction; or
 - (d) The entity and the Department of Revenue agree in writing to the application or use of an alternative method of apportionment under KRS 141.120(9).
- ~~(4) [An entity subject to the tax imposed by this chapter shall not be allowed to deduct management fees directly or indirectly paid, accrued or incurred to, or in connection directly or indirectly with one (1) or more direct or indirect transactions with one (1) or more related members or with a foreign corporation as defined in subsection (1) of this section or with an entity that would be included in the affiliated group based upon ownership interest if it were organized as a corporation.~~
- ~~(5) The disallowance of the deduction provided in subsection (4) of this section shall not apply if:~~
- ~~(a) The entity and recipient are both included in the same consolidated Kentucky corporation income tax return for the relevant taxable year;~~
 - ~~(b) The entity makes a disclosure and establishes by a preponderance of the evidence that the transaction giving rise to the management fees between the corporation and the recipient was made at a commercially reasonable rate and at terms comparable to an arm's-length transaction; or~~
 - ~~(c) The entity and the Department of Revenue agree in writing to the application or use of an alternative method of apportionment under subsection KRS 141.120(9).~~

~~(6)~~—]An entity subject to the tax imposed by this chapter may deduct expenses or costs associated with an other related party transaction only in an amount equal to the amount which would have resulted if the other related party transaction had been carried out at arm's length. In any dispute between the department and the entity with respect to the amount which would have resulted if the transaction had been carried out at arm's length, the entity shall bear the burden of establishing the amount by a preponderance of the evidence.

~~(5)~~~~(7)~~ Nothing in this section shall be deemed to prohibit an entity from deducting a related party cost in an amount permitted by this section, provided that the entity has incurred related party costs equal to or greater than the amounts permitted by this section.

~~(6)~~~~(8)~~ If it is determined by the department that the amount of a deduction claimed by an entity with respect to a related party cost is greater than the amount permitted by this section, the net income of the entity shall be adjusted to reflect the amount of the related party cost permitted by this section.

~~(7)~~~~(9)~~ For tax periods ending before January 1, 2005, in the case of entities not required to file a consolidated or combined return under subsection (1) of this section that carried on transactions with stockholders or affiliated entities directly or indirectly, the department shall adjust the net income of such entities to an amount that would result if such transactions were carried on at arm's length.

➔Section 18. KRS 143.010 is amended to read as follows:

As used in this chapter~~, unless the context requires otherwise~~:

- (1) "Department" means the Department of Revenue;
- (2) "Coal" means and includes any material composed predominantly of hydrocarbons in a solid state;
- (3) "Severed," "severing," or "severance" means the physical removal of coal from the earth;
- (4) "Ton" means a short ton of 2,000 pounds. The number of tons shall be determined at the first point at which the coal is weighed;
- (5) (a) "Taxpayer" *means*~~shall mean~~ and *includes*~~include~~ any individual, partnership, joint venture, association, or corporation engaged in severing and/or processing coal in this state. In instances where contracts, either oral or written, are entered into by which persons, organizations, or businesses are engaged to mine or process the coal but do not obtain title to or do not have an economic interest therein, the party who owns the coal or has an economic interest shall be the taxpayer.
 - (b) *For purposes of this chapter, a taxpayer possesses an economic interest in coal where the taxpayer has acquired by investment any interest in coal and secures, by any form of legal relationship, income derived from the severance or processing of coal, to which he must look for a return of his capital. A party who has no capital investment in the coal or who only receives an arm's length royalty shall not be considered as having an economic interest;*
- (6) "Gross value" is *defined*~~synonymous with gross income from property as defined in Section 613(c) of the Internal Revenue Code and regulations 1.613-3 and 1.613-4 in effect on December 31, 1977, with the exception that in all instances transportation expense, as defined in subsection (11) of this section, incurred in transporting coal shall not be considered as gross income from the property. Gross value shall be reported~~ as follows:
 - (a) For coal severed and/or processed and sold during a reporting period, gross value shall be the amount received or receivable by the taxpayer;~~;~~
 - (b) For coal severed and/or processed, but not sold during a reporting period, gross value shall be determined as follows:
 1. If the coal is to be sold under the terms of an existing contract, the contract price shall be used in computing gross value; ~~and~~
 2. If there is no existing contract, the fair market value for that grade and quality of coal shall be used in computing gross value;~~;~~
 - (c) In a transaction involving related parties, gross value shall be the amount received or receivable from the first noncontrolled sale by the related parties. If coal is sold to a related party for consumption, gross value shall not be less than the fair market value for coal of similar grade and quality;~~;~~
 - (d) In the absence of a sale, gross value shall be the fair market value for coal of similar grade and quality;~~;~~

- (e) If severed coal is purchased for the purpose of processing and resale, the gross value shall be the amount received or receivable during the reporting period reduced by the amount paid or payable to the registered taxpayer actually severing the coal;~~[-]~~
 - (f) If severed coal is purchased for the purpose of processing and consumption, the gross value shall be the fair market value of processed coal of similar grade and quality reduced by the amount paid or payable to the registered taxpayer actually severing the coal;~~[-]~~
 - (g) In all instances, the gross value shall not be reduced by any taxes, including the tax levied by KRS 143.020, royalties, sales commissions, or any other expense; *and*
 - (h) *In all instances, transportation expense incurred in transporting coal shall not be considered as gross income from the property;*
- (7) "Reporting period" means the period for which each taxpayer shall compute his tax liability and remit the tax due to the department. The reporting period shall be monthly. However, the department may, under certain conditions, authorize a quarterly reporting period;
- (8) "Processing" includes cleaning, breaking, sizing, dust allaying, treating to prevent freezing, or loading or unloading for any purpose. "Processing" shall not include:
- (a) Acts performed by a final consumer who is not a related party to the person who severed and/or processed the coal if such acts are performed only at the site where the coal is consumed for purposes of generating electricity;
 - (b) The act of unloading or loading for shipment coal that has not been severed, cleaned, broken, sized, or otherwise treated in Kentucky; or
 - (c) The use of electromagnetic energy on coal to reduce moisture, ash, sulfur, or mercury in the coal;
- (9) "Related party" means two (2) or more persons, organizations, or businesses owned or controlled directly or indirectly by the same interest. Control shall exist if a contract or lease, either written or oral, is entered into whereby one (1) party mines or processes coal owned or held by another party and the owner or lessor participates in the mining, processing, or marketing of the coal or receives any value other than an arm's length passive royalty interest. In the case of related parties, the department may apportion or allocate the receipts between or among the persons, organizations, or businesses if it determines that the apportionment or allocation is necessary in order to more clearly reflect gross value;
- (10) ~~["Economic interest" for the purposes of this chapter shall be synonymous with the economic interest ownership required by Internal Revenue Code Section 611 in effect on December 31, 1977, entitling the taxpayer to a depletion deduction for income tax purposes with the exception that a party who only receives an arm's length royalty shall not be considered as having an economic interest;~~
- ~~(11)~~ "Transportation expense" ~~means~~~~[shall mean]~~:
- (a) The amount paid by a taxpayer to a third party for transporting coal from the mine mouth or pit to a processing plant, tipple, or loading dock; *and*~~[-]~~
 - (b) The expense incurred by a taxpayer using his own facilities in transporting coal from the mine mouth or pit to a processing plant, tipple, or loading dock.
 - (c) "Transportation *expense*"~~[expenses]~~ shall not include:
 1. The cost of acquisition, improvements, and maintenance of real property;
 2. The cost of acquisition and operating expenses of mining and nonmining loading or unloading facilities; *or*
 3. The cost of acquisition and operating expenses of equipment used to load or unload the coal at the mine, processing facility, and mining and nonmining loading facility;
- ~~(11)~~~~(12)~~ "Registered taxpayer" ~~means~~~~[as used in subsection (6)(e) and (f) of this section shall mean]~~ a *taxpayer*~~["taxpayer" as defined in subsection (5) of this section]~~ who holds a valid coal tax certificate of registration required under KRS 143.030(1) and the certificate of registration was valid for the period in which his coal was sold;
- ~~(12)~~~~(13)~~ "Above-drainage" means coal in a coal bed that outcrops at the surface within a mine permit area and that is accessed at the outcrop location;

~~(13)~~~~(14)~~ "Below-drainage" means coal in a coal bed that does not outcrop at the surface within a mine permit area and that is accessed by mine slopes or other openings that penetrate the coal a minimum of thirty (30) feet below the surface drainage level; and

~~(14)~~~~(15)~~ "Mining ratio" means the amount of bank cubic yards of surface material that must be removed before a ton of coal can be mined.

➔Section 19 KRS 143.025 is amended to read as follows:

(1) Taxpayers severing coal in Kentucky and partially or wholly processing the coal outside of Kentucky thereafter and taxpayers severing coal outside of Kentucky and partially or wholly processing the coal in Kentucky thereafter shall determine and report the gross value of the coal by application of the following formula:

(a) Determine the direct cost of severing or processing the coal in Kentucky as defined in subsections (d) and (e) of this section.

(b) Determine the direct cost of severing or processing the coal outside of Kentucky as defined in subsections (d) and (e) of this section.

(c) Exclude from subsections (a) and (b) of this section transportation expense ~~as defined in KRS 143.010(1)~~ and overhead cost as defined in subsection (f) of this section.

(d) Include in the direct cost of severing coal: black lung excise tax; contract mining, less transportation expense contained therein; cost depletion; depreciation; development; equipment rental; explosives; fuel; labor and associated expenses; maintenance; reclamation; royalties when based on tons severed; and wheelage.

(e) Include in the direct cost of processing coal: depreciation; equipment rental; fee processing; fuel; labor and associated expense; maintenance; and refuse disposal.

(f) Include in the overhead costs: commissions; freight yard and siding expense; general expense; general insurance and supervision; general office expense; idle time expense; inventory adjustments; mine closing expense; officers' salaries; percentage depletion; quality analysis; scale and weighman's expense; transportation expense and taxes, including sales, coal severance, property, franchises, and state income taxes.

(2) For purposes of computing the formula under this section, any expense which is not directly attributable to either the severing or processing of the coal shall be classified as an overhead cost.

(3) Direct cost determined in subsection (a) of this section divided by the total of direct cost determined in subsection (a) of this section and the direct cost determined in subsection (b) of this section and the result multiplied by the gross value of the coal shall equal the proportion of gross value which is subject to the tax levied under KRS 143.020.

(4) Any taxpayer determining taxable gross value as provided in this section shall submit supporting computations and classifications of cost with each coal tax return, unless the department authorizes the taxpayer to submit the supporting information on a basis other than monthly.

➔Section 20. KRS 143A.010 is amended to read as follows:

As used in this chapter:

(1) "Department" means the Department of Revenue;~~;~~

(2) "Natural resource" means all forms of minerals including but not limited to rock, stone, limestone, shale, gravel, sand, clay, natural gas, and natural gas liquids which are contained in or on the soils or waters of this state. For purposes of this chapter, "natural resource" does not include coal and oil which are taxed under KRS 143.020 and 137.120;~~;~~

(3) "Severing" or "severed" means the physical removal of the natural resource from the earth or waters of this state by any means; however, "severing" or "severed" shall not include the removal of natural gas from underground storage facilities into which the natural gas has been mechanically injected following its initial removal from the earth;~~;~~

(4) (a) "Taxpayer" means and includes any individual, partnership, joint venture, association, corporation, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind engaged in the business of severing and/or processing natural resources in this state for sale or use. In instances

where contracts, either oral or written, are entered into whereby persons, organizations or businesses are engaged in the business of severing and/or processing a natural resource but do not obtain title to or do not have an economic interest therein, the party who owns the natural resource or has an economic interest is the taxpayer.

(b) For purposes of this chapter, a taxpayer possesses an economic interest in a natural resource where the taxpayer has acquired by investment any interest in a natural resource and secures, by any form of legal relationship, income derived from the severance or processing of the natural resource, to which he must look for a return of his capital. A party who has no capital investment in the natural resource or who only receives an arm's length royalty shall not be considered as having an economic interest;

(5) "Gross value" is ~~defined~~~~[synonymous with gross income from property as defined in section 613(c) of the Internal Revenue Code and regulations 1.613-3 and 1.613-4 in effect on December 31, 1977, with the exception that in all instances transportation expense, as defined in subsection (9) of this section incurred in transporting a natural resource shall not be considered as gross income from the property. Gross value is to be reported]~~ as follows:

(a) For natural resources severed and/or processed and sold during a reporting period, gross value is the amount received or receivable by the taxpayer;~~[-]~~

(b) For natural resources severed and/or processed, but not sold during a reporting period, gross value shall be determined as follows:

1. If the natural resource is to be sold under the terms of an existing contract, the contract price shall be used in computing gross value; ~~and~~~~[-]~~

2. If there is no existing contract, the fair market value for that grade and quality of the natural resource shall be used in computing gross value;~~[-]~~

(c) In a transaction involving related parties, gross value shall not be less than the fair market value for natural resources of similar grade and quality;~~[-]~~

(d) In the absence of a sale, gross value shall be the fair market value for natural resources of similar grade and quality;~~[-]~~

(e) If severed natural resources are purchased for the purpose of processing and resale, the gross value is the amount received or receivable during the reporting period reduced by the amount paid or payable to the taxpayer actually severing the natural resource;~~[-]~~

(f) If severed natural resources are purchased for the purpose of processing and consumption, the gross value is the fair market value of processed natural resources of similar grade and quality reduced by the amount paid or payable to the taxpayer actually severing the natural resource;~~[-]~~

(g) In all instances, the gross value shall not be reduced by any taxes including the tax levied in KRS 143A.020, royalties, sales commissions, or any other expense; ~~and~~

(h) In all instances, transportation expense incurred in transporting a natural resource shall not be considered as gross income from the property;~~[-]~~

(6) "Processing" includes but is not limited to breaking, crushing, cleaning, drying, sizing, or loading or unloading for any purpose. "Processing" shall not include the act of unloading or loading for shipment natural resources that have not been severed, cleaned, broken, crushed, dried, sized or otherwise treated in Kentucky;~~[-]~~

(7) "Related parties" means two (2) or more persons, organizations or businesses owned or controlled directly or indirectly by the same interests; ~~and~~~~[-]~~

(8) ~~["Economic interest" for the purpose of this chapter is synonymous with the economic interest ownership required by Internal Revenue Code, Section 611 in effect on December 31, 1977, entitling the taxpayer to a depletion deduction for income tax purposes with the exception that a party who only receives an arm's length royalty shall not be considered as having an economic interest.~~

~~(9)~~~~—~~(a) "Transportation expense" means:

1. The amount paid by a taxpayer to a third party for transporting natural resources; and

2. The expenses incurred by a taxpayer using his own facilities in transporting natural resources from the point of extraction to a processing plant, tipple, or loading dock.

- (b) "Transportation *expense*"~~[expenses]~~ shall not include:
1. The cost of acquisition, improvements, and maintenance of real property;
 2. The cost of acquisition and operating expenses of mining and nonmining loading or unloading facilities; or
 3. The cost of acquisition and operating expenses of equipment used to load or unload the natural resource at the point of extraction, processing facility, or mining and nonmining loading facility.

➔Section 21. KRS 143A.050 is amended to read as follows:

- (1) Every taxpayer~~[as defined in KRS 143A.010(4)]~~ shall,~~[before June 1, 1980, or]~~ before engaging in the severing or processing of a natural resource subjected to tax under KRS 143A.020, obtain a certificate of registration by filing with the department an application in such form and containing such information as the department may prescribe. Every application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application.
- (2) Whenever any taxpayer fails to comply with any provisions of this section through KRS 143A.130 or any rule or regulation of the department relating thereto, the department may suspend or revoke the certificate of registration held by such taxpayer.
- (3) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin operation of a taxpayer's business being operated without a certificate of registration. Such action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the taxpayer.

➔SECTION 22. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Retirement Systems unfunded liability trust fund is created and shall be administered by the Finance and Administration Cabinet.*
- (2) (a) *The trust fund shall consist of:*
 1. *Contributions, gifts, and donations;*
 2. *Any moneys designated by the General Assembly for deposit into the fund; and*
 3. *Any other proceeds from grants, appropriations, or other moneys made available for the purposes of the trust fund.*
- (b) *Any donor may designate to which system within the Kentucky Retirement Systems the donation shall benefit, including:*
 1. *The Kentucky Employees Retirement System nonhazardous fund;*
 2. *The Kentucky Employees Retirement System hazardous fund;*
 3. *The County Employees Retirement System nonhazardous fund;*
 4. *The County Employees Retirement System hazardous fund; or*
 5. *The State Police Retirement System.*
- (c) *Checks submitted for donations shall be made payable to the Kentucky State Treasurer.*
- (3) *Moneys in the trust fund:*
 - (a) *Shall be disbursed quarterly to the Kentucky Retirement Systems;*
 - (b) *Shall be used to eliminate any unfunded liability and supplement the investible assets of the Kentucky Retirement Systems; and*
 - (c) *Are hereby appropriated for the purposes set forth in paragraph (b) of this subsection.*
- (4) *Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward into the succeeding fiscal year to be used for the purposes provided by subsection (3) of this section.*
- (5) *Interest earned on any moneys in the trust fund shall accrue to the trust fund.*

- (6) (a) *The Finance and Administration Cabinet shall separately account for each contribution, gift, or donation made to the trust fund and shall publish on its Web site a listing of each contribution, gift, or donation made and a cumulative total of the value of all contributions, gifts, or donations, including the cumulative total, since the creation of the fund, for each donor or association of donors or entities, other than those wishing to remain anonymous.*
- (b) *Information listed on the Web site related to each contribution may include all information set out in this paragraph, as reported by the donor:*
1. *The name of donor;*
 2. *The location of the donor by county, if the donor is located in Kentucky, or by state, if the donor is located outside Kentucky; and*
 3. *The title or position of the donor, or the association of the donor with any other entity.*
- (c) *Anonymous donations shall be accepted without requiring any of the information provided in paragraph (b) of this subsection.*
- (7) *The Finance and Administration Cabinet may work in conjunction with management consultants and others willing to give of their time and talents to create a strategic plan to encourage individuals, foundations, associations, corporations, and other entities to make donations to the fund.*

➔Section 23. KRS 141.325 is amended to read as follows:

- (1) An employee receiving wages shall on any day be entitled to the following withholding exemptions:
- (a) One (1) exemption for himself;
 - (b) One (1) exemption for each dependent for whom he would be entitled to a tax credit under the provisions of KRS 141.020(3)(a)3. *or (b)1. c. {(e)}*;
 - (c) If the employee is married, the exemption to which his spouse is entitled, or would be entitled if such spouse were an employee, under subparagraph (a) of this subsection, but only if such spouse does not have in effect a withholding exemption certificate claiming such exemption;
 - (d) Such other withholding exemptions as the department may prescribe by regulation.
- (2) Every employee shall, on or before July 1, 1954, or before the date of commencement of employment, whichever is later, furnish his employer with a signed withholding exemption certificate relating to the number of withholding exemptions which he claims, which in no event shall exceed the number to which he is entitled.
- (3) Withholding exemption certificates shall take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished; provided, that certificates furnished before July 1, 1954, shall be considered as furnished on that date.
- (4) A withholding exemption certificate which takes effect under this section shall continue in effect with respect to the employer until another such certificate takes effect under this section. If a withholding exemption certificate is furnished to take the place of an existing certificate, the employer, at his option, may continue the old certificate in force with respect to all wages paid on or before the first status determination date, January 1 or July 1, which occurs at least thirty (30) days after the date on which such new certificate is furnished.
- (5) If, on any day during the calendar year, the number of withholding exemptions to which the employee may reasonably be expected to be entitled at the beginning of his next taxable year is different from the number to which the employee is entitled on such day, the employee shall in such cases and at such time as the department may prescribe, furnish the employer with a withholding exemption certificate relating to the number of exemptions which he claims with respect to such next taxable year, which shall in no event exceed the number to which he may reasonably be expected to be so entitled. Exemption certificates issued pursuant to this subsection shall not take effect with respect to any payment of wages made in the calendar year in which the certificate is furnished.
- (6) If, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is less than the number of withholding exemptions claimed by the employee on the withholding exemption certificate then in effect with respect to him, the employee shall, within ten (10) days thereafter, furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which shall in no event exceed the number to which he is entitled

on such day. If, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is greater than the number of withholding exemptions claimed, the employee may furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which shall in no event exceed the number to which he is entitled on such day.

- (7) Withholding exemption certificates shall be in such form and contain such information as the department may by regulations prescribe.

➔Section 24. It is the intent of the General Assembly that the changes made in Sections 7 and 8 of this Act, relating to tangible personal property which has been certified as a pollution control facility, are to clarify existing provisions in the law, as follows:

(1) That the tax rate of fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value only applies to tangible personal property which has been certified as a pollution control facility; and

(2) That only tangible personal property certified as a pollution control facility is subject to taxation for state purposes only while being exempt from taxation in the county, city, school, or other taxing district in which it has a taxable situs.

➔Section 25. Section 17 of this Act applies to taxable years beginning on or after January 1, 2014.

➔Section 26. The provisions of Section 6 to 9, and 24 of this Act shall apply to property assessed on or after January 1, 2014.

➔Section 27. Sections 1 to 5, 12 to 15, and 18 to 21 of this Act take effect July 1, 2013.

➔Section 28. Sections 6 to 9, and 24 of this Act take effect January 1, 2014.

Signed by Governor April 4, 2013.

CHAPTER 120

(SB 2)

AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO READ AS FOLLOWS:

The Public Pension Oversight Board of the Kentucky General Assembly is hereby established. The purpose of the board shall be to review, analyze, and provide oversight to the General Assembly on the benefits, administration, investments, funding, laws and administrative regulations, and legislation pertaining to the Kentucky Retirement Systems.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 7 of this Act, unless the context requires otherwise:

- (1) *"Board" means the Public Pension Oversight Board;*
- (2) *"Kentucky Retirement Systems" means:*
 - (a) *The State Police Retirement System as provided by KRS 16.505 to 16.652;*
 - (b) *The Kentucky Employees Retirement System as provided by KRS 61.510 to 61.705; and*
 - (c) *The County Employees Retirement System as provided by KRS 78.510 to 78.852; and*
- (3) *"State agency" means any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other entity of the executive, judicial, or legislative branch of the state government.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO READ AS FOLLOWS:

- (1) *The Public Pension Oversight Board shall be composed of the following thirteen (13) members:*

- (a) *Two (2) members of the General Assembly appointed by the Speaker of the House of Representatives, each of whom shall serve while a member of the House for the term for which he or she has been elected, and one (1) of whom the Speaker shall designate as co-chair;*
 - (b) *Two (2) members of the General Assembly appointed by the President of the Senate, each of whom shall serve while a member of the Senate for the term for which he or she has been elected, and one (1) of whom the President shall designate as co-chair;*
 - (c) *One (1) member of the General Assembly appointed by the Minority Floor Leader of the Senate, who shall serve while a member of the Senate for the term for which he or she has been elected;*
 - (d) *One (1) member of the General Assembly appointed by the Minority Floor Leader of the House of Representatives, who shall serve while a member of the House for the term for which he or she has been elected;*
 - (e) *One (1) individual appointed by the Speaker of the House of Representatives, who shall be certified as a chartered financial analyst (CFA) with at least ten (10) years of investment experience or who shall possess at least ten (10) years of retirement experience as defined by subsection (2) of this section;*
 - (f) *One (1) individual appointed by the President of the Senate, who shall be certified as a chartered financial analyst (CFA) with at least ten (10) years of investment experience or who shall possess at least ten (10) years of retirement experience as defined by subsection (2) of this section;*
 - (g) *The state budget director or his or her designee;*
 - (h) *The Auditor of Public Accounts or his or her designee;*
 - (i) *The Attorney General or his or her designee; and*
 - (j) *Two (2) individuals appointed by the Governor, one (1) of whom shall be certified as a chartered financial analyst (CFA) with at least ten (10) years of investment experience and one (1) of whom shall possess at least ten (10) years of retirement experience as defined by subsection (2) of this section.*
- (2) *For purposes of this section, "retirement experience" means:*
- (a) *Experience in retirement or pension plan management;*
 - (b) *A certified public accountant with relevant experience in retirement or pension plan accounting;*
 - (c) *An actuary with relevant experience in retirement or pension plan consulting;*
 - (d) *An attorney licensed to practice law in the Commonwealth of Kentucky with relevant experience in retirement or pension plans; or*
 - (e) *A current or former university professor whose primary area of emphasis is economics or finance.*
- (3) *Individuals appointed under subsection (1)(e), (f), and (j) of this section shall not:*
- (a) *Be a member of the General Assembly;*
 - (b) *Be employed by a state agency of the Commonwealth of Kentucky or receiving a contractual payment for services rendered to a state agency of the Commonwealth of Kentucky that would conflict with his or her service to the board;*
 - (c) *Be a member or retired member of the Kentucky Retirement Systems; or*
 - (d) *Serve more than three (3) consecutive terms on the board.*
- (4) *Any vacancy which may occur in the membership of the board shall be filled by the appointing authority who made the original appointment.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO READ AS FOLLOWS:

- (1) *The co-chairs of the Public Pension Oversight Board shall have joint responsibilities for board meeting agendas and presiding at board meetings.*
- (2) *On an alternating basis, each co-chair shall have the first option to set the monthly meeting date. A monthly meeting may be canceled by agreement of both co-chairs. The board shall meet at least twice during each calendar year.*

- (3) *Members of the board shall be entitled to reimbursement for expenses incurred in the performance of their duties.*
- (4) *A majority of the entire membership of the Public Pension Oversight Board shall constitute a quorum, and all actions of the board shall be by vote of a majority of its entire membership.*
- (5) *The Legislative Research Commission shall have exclusive jurisdiction over the employment of personnel necessary to carry out the provisions of Sections 1 to 7 of this Act. Staff and operating costs of the Public Pension Oversight Board shall be provided from the budget of the Legislative Research Commission.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO READ AS FOLLOWS:

The Public Pension Oversight Board shall have the authority to:

- (1) *Except as provided by KRS 61.661, require the Kentucky Retirement Systems, or any other state agency, to provide any and all information necessary to carry out the duties of the board, including any actuarial analysis. The cost of providing the information to the board, including any actuarial analysis, shall be included in the administrative budget of the Kentucky Retirement Systems or the state agency;*
- (2) *Conduct public hearings in furtherance of its general duties, at which it may request the appearance of officials of any state agency and solicit the testimony of interested groups and the general public;*
- (3) *Establish a uniform format for reports and data submitted to the board by the Kentucky Retirement Systems and the frequency and due dates for the reports and data;*
- (4) *Request the Auditor of Public Accounts to perform a financial or special audit of the Kentucky Retirement Systems; and*
- (5) *Subject to selection and approval by the Legislative Research Commission, utilize the services of consultants, actuaries, managers, legal counsel, and auditors to render professional, managerial, and technical assistance, as needed.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO READ AS FOLLOWS:

The Public Pension Oversight Board:

- (1) *Shall, from time to time, conduct an impartial review of all the laws governing the Kentucky Retirement Systems and recommend any changes it may find desirable with respect to benefits and administration, funding of benefits, investments of funds, and the improvement of language, structure, and organization of the statutes;*
- (2) *Shall, once every five (5) years, review the benefits provided to employees who begin participating in the systems administered by Kentucky Retirement Systems on or after January 1, 2014, and recommend any changes to the provisions affecting these employees that are necessary to maintain the actuarial soundness of the systems;*
- (3) *Shall review semiannually the investment programs of the Kentucky Retirement Systems, including a review of asset allocation targets and ranges, risk factors, asset class benchmarks, total return objectives, relative volatility, performance evaluation guidelines, investment policies, and securities litigation policies and recoveries from fraud or other corporate malfeasance. The board may establish an advisory committee, as provided by Section 7 of this Act, which may include investment professionals to assist in complying with the provisions of this subsection;*
- (4) *May review any benefits, bylaws, policies, or charters established by the Kentucky Retirement Systems;*
- (5) *Shall, at the request of the Speaker of the House of Representatives or the President of the Senate, evaluate proposed changes to laws affecting the Kentucky Retirement Systems and report to the Speaker or the President on the probable costs, actuarial implications, and desirability as a matter of public policy;*
- (6) *May review all new or amended administrative regulations of the Kentucky Retirement Systems and provide comments to the Administrative Regulations Review Subcommittee established by KRS 13A.020;*
- (7) *Shall research issues related to the Kentucky Retirement Systems as directed by the Legislative Research Commission; and*
- (8) *Shall publish an annual report covering the board's evaluation and recommendations with respect to the operations of the Kentucky Retirement Systems. The report shall be submitted to the Legislative Research Commission no later than December 1 of each year and shall include at a minimum any legislative*

recommendations made by the board, a summary of the financial and actuarial condition of the Kentucky Retirement Systems, and an analysis of the adequacy of the current levels of funding.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO READ AS FOLLOWS:

The officers and personnel of any state agency and any other person may serve at the request of the board upon any advisory committees that the board may create. State officers and personnel may serve upon these advisory committees without forfeiture of office or employment and with no loss or diminution in the compensation, status, rights, and privileges which they otherwise enjoy.

➔SECTION 8. A NEW SECTION OF KRS 16.505 TO 16.652 IS CREATED TO READ AS FOLLOWS:

- (1) *A member of the State Police Retirement System, a member of the Kentucky Employees Retirement System in a hazardous duty position covered by this section, or a member of the County Employees Retirement System in a hazardous duty position covered by this section, whose participation begins on or after January 1, 2014, shall receive the retirement benefits provided by this section in lieu of the retirement benefits provided under Sections 38 and 39 of this Act. The retirement benefit provided by this section shall be known as the hybrid cash balance plan and shall operate as another benefit tier within the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System.*
- (2) *The hybrid cash balance plan shall provide a retirement benefit based upon the member's accumulated account balance, which shall include:*
 - (a) *Contributions made by the member as provided by KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852, except for employee contributions prescribed by KRS 61.702(2)(b);*
 - (b) *An employer pay credit of seven and one-half percent (7.5%) of the creditable compensation earned by the employee for each month the employee is contributing to the hybrid cash balance plan provided by this section; and*
 - (c) *Interest credits added annually to the member's accumulated account balance as provided by this section.*
- (3) *Member contributions and employer pay credits as provided by subsection (2)(a) and (b) of this section shall be credited to the member's account monthly as contributions are reported and posted to the system in accordance with KRS 61.675 and 78.625.*
 - (b) *Interest credits, as provided by subsection (2)(c) of this section, shall be credited to the member's account annually on June 30 of each fiscal year, as determined by subsection (4) of this section.*
- (4) *On June 30 of each fiscal year, the system shall determine if the member contributed to the hybrid cash balance plan during the fiscal year.*
 - (b) *If the member contributed to the hybrid cash balance plan during the fiscal year, the interest credit added to the member's account for that fiscal year shall be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by a percentage increase equal to:*
 1. *Four percent (4%); plus*
 2. *Seventy-five percent (75%) of the system's geometric average net investment return in excess of a four percent (4%) rate of return.*
 - (c) *If the member did not contribute to the hybrid cash balance plan during the fiscal year, the interest credit added to the member's account for that fiscal year shall be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by four percent (4%).*
 - (d) *For purposes of this subsection, "system's geometric average net investment return":*
 1. *Means the annual average geometric investment return, net of administrative and investment fees and expenses, over the last five (5) fiscal years as of the date the interest is credited to the member's account; and*
 2. *Shall be expressed as a percentage and based upon the system in which the member has an account.*

- (e) *No employer pay credits or interest credits shall be provided to a member who has taken a refund of contributions as provided by KRS 61.625 or who has retired and annuitized his or her accumulated account balance as prescribed by this section.*
- (5) (a) *Upon termination of employment, a member who has less than five (5) years of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), who elects to take a refund of his or her accumulated account balance as provided by KRS 61.625, shall forfeit the accumulated employer credit, and shall only receive a refund of his or her accumulated contributions.*
- (b) *Upon termination of employment, a member who has five (5) or more years of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), who elects to take a refund of his or her accumulated account balance as provided by KRS 61.625, shall receive a full refund of his or her accumulated account balance.*
- (6) *A member participating in the hybrid cash balance plan provided by this section may retire:*
 - (a) *At his or her normal retirement date, provided he or she has earned five (5) or more years of service credited under KRS 16.543(1), 61.543(1) or 78.615(1) or another state-administered retirement system; or*
 - (b) *At any age, provided he or she has earned twenty-five (25) or more years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system.*
- (7) *A member eligible to retire under subsection (6) of this section may elect to:*
 - (a) *Receive a monthly retirement allowance payable for life by having his or her accumulated account balance annuitized by the retirement systems in accordance with the actuarial assumptions and actuarial methods adopted by the board and in effect on the member's retirement date;*
 - (b) *Receive the actuarial equivalent of his or her retirement allowance calculated under paragraph (a) of this subsection payable under one (1) of the options set forth in Section 63 of this Act, except for the option provided by subsection (11) of Section 63 of this Act; or*
 - (c) *Take a refund of his or her account balance as provided by KRS 61.625.*
- (8) *The provisions of this section shall not apply to members who began participating in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System prior to January 1, 2014.*

➔SECTION 9. A NEW SECTION OF KRS 61.510 TO 61.705 IS CREATED TO READ AS FOLLOWS:

- (1) *A member of the Kentucky Employees Retirement System or County Employees Retirement System who is not participating in a hazardous duty position as provided by KRS 61.592, whose participation in the systems begins on or after January 1, 2014, shall receive the retirement benefits provided by this section in lieu of the retirement benefits provided under Sections 52 and 58 of this Act. The retirement benefit provided by this section shall be known as the hybrid cash balance plan and shall operate as another benefit tier within the Kentucky Employees Retirement System and the County Employees Retirement System.*
- (2) *The hybrid cash balance plan shall provide a retirement benefit based upon the member's accumulated account balance, which shall include:*
 - (a) *Contributions made by the member as provided by KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852, except for employee contributions prescribed by KRS 61.702(2)(b);*
 - (b) *An employer pay credit of four percent (4%) of the creditable compensation earned by the employee for each month the employee is contributing to the hybrid cash balance plan provided by this section; and*
 - (c) *Interest credits added annually to the member's accumulated account balance as provided by this section.*
- (3) (a) *Member contributions and employer pay credits as provided by subsection (2)(a) and (b) of this section shall be credited to the member's account monthly as contributions are reported and posted to the system in accordance with KRS 61.675 and 78.625.*
- (b) *Interest credits, as provided by subsection (2)(c) of this section, shall be credited to the member's account annually on June 30 of each fiscal year, as determined by subsection (4) of this section.*

- (4) (a) *On June 30 of each fiscal year, the system shall determine if the member contributed to the hybrid cash balance plan during the fiscal year.*
- (b) *If the member contributed to the hybrid cash balance plan during the fiscal year, the interest credit added to the member's account for that fiscal year shall be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by a percentage increase equal to:*
1. *Four percent (4%); plus*
 2. *Seventy-five percent (75%) of the system's geometric average net investment return in excess of a four percent (4%) rate of return.*
- (c) *If the member did not contribute to the hybrid cash balance plan during the fiscal year, the interest credit added to the member's account for that fiscal year shall be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by four percent (4%).*
- (d) *For purposes of this subsection, "system's geometric average net investment return":*
1. *Means the annual average geometric investment return, net of administrative and investment fees and expenses, over the last five (5) fiscal years as of the date the interest is credited to the member's account; and*
 2. *Shall be expressed as a percentage and based upon the system in which the member has an account.*
- (e) *No employer pay credits or interest credits shall be provided to a member who has taken a refund of contributions as provided by KRS 61.625 or who has retired and annuitized his or her accumulated account balance as prescribed by this section.*
- (5) (a) *Upon termination of employment, a member who has less than five (5) years of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), who elects to take a refund of his or her accumulated account balance as provided by KRS 61.625, shall forfeit the accumulated employer credit, and shall only receive a refund of his or her accumulated contributions.*
- (b) *Upon termination of employment, a member who has five (5) or more years of service credited under KRS 16.543(1), 61.543(1), and 78.615(1), who elects to take a refund of his or her accumulated account balance as provided by KRS 61.625, shall receive a full refund of his or her accumulated account balance.*
- (6) *A member participating in the hybrid cash balance plan provided by this section may retire:*
- (a) *At his or her normal retirement date, provided he or she has earned five (5) or more years of service credited under KRS 16.543(1), 61.543(1), 78.615(1), or another state-administered retirement system; or*
 - (b) *If the member is at least age fifty-seven (57) and has an age and years of service total of at least eighty-seven (87) years. The years of service used to determine eligibility for retirement under this paragraph shall only include years of service credited under KRS 16.543(1), 61.543(1), 78.615(1), or another state-administered retirement system.*
- (7) *A member eligible to retire under subsection (6) of this section may elect to:*
- (a) *Receive a monthly retirement allowance payable for life by having his or her accumulated account balance annuitized by the retirement systems in accordance with the actuarial assumptions and actuarial methods adopted by the board and in effect on the member's retirement date;*
 - (b) *Receive the actuarial equivalent of his or her retirement allowance calculated under paragraph (a) of this subsection payable under one (1) of the options set forth in Section 63 of this Act, except for the option provided by subsection (11) of Section 63 of this Act; or*
 - (c) *Take a refund of his or her account balance as provided by KRS 61.625.*
- (8) *The provisions of this section shall not apply to members who began participating in the Kentucky Employees Retirement System or the County Employees Retirement System prior to January 1, 2014.*

➔SECTION 10. A NEW SECTION OF KRS 61.510 TO 61.705 IS CREATED TO READ AS FOLLOWS:

- (1) *For purposes of this section, "bona fide promotion or career advancement":*
- (a) *Means a professional advancement in substantially the same line of work held by the employee in the four (4) years immediately prior to the final five (5) fiscal years preceding retirement or a change in employment position based on the training, skills, education, or expertise of the employee that imposes a significant change in job duties and responsibilities to clearly justify the increased compensation to the member; and*
- (b) *Does not include any circumstance where an elected official participating in the Kentucky Employees Retirement System or the County Employees Retirement System takes a position of employment with a different employer participating in any of the state-administered retirement systems.*
- (2) *For employees retiring on or after January 1, 2014, the last participating employer shall be required to pay for any additional actuarial costs resulting from annual increases in an employee's creditable compensation greater than ten percent (10%) over the employee's last five (5) fiscal years of employment that are not the direct result of a bona fide promotion or career advancement. The cost shall be determined by the retirement systems and the system may promulgate administrative regulations in accordance with KRS Chapter 13A to administer this section.*
- (3) (a) *The Kentucky Retirement Systems shall determine whether increases in creditable compensation during the last five (5) fiscal years of employment prior to retirement constitute a bona fide promotion or career advancement.*
- (b) *Lump-sum payments for compensatory time paid to an employee upon termination of employment shall be exempt from the provisions of this section.*
- (4) *Kentucky Retirement Systems shall be required to answer inquiries from participating employers regarding this section. Upon request of the employer prior to the employee's change of position or hiring, the systems shall make a determination that is binding to the systems as to whether or not a change of position or hiring constitutes a bona fide promotion or career advancement.*
- (5) *Any employer who disagrees with a determination made by the system in accordance with this section may request a hearing and appeal the decision in accordance with subsection (16) of Section 65 of this Act. The systems shall not charge interest, or consider the costs due under this section as delinquent contributions, during the pendency of the hearing process and appeal.*
- (6) *For any additional actuarial costs charged to the employer under this section, the systems shall allow the employer to pay the costs over a period, not to exceed one (1) year, without interest.*

➔SECTION 11. A NEW SECTION OF KRS 61.510 TO 61.705 IS CREATED TO READ AS FOLLOWS:

- (1) *The annual retirement allowance for a member of the Kentucky Employees Retirement System shall not exceed the maximum benefit as set forth in the Internal Revenue Code.*
- (2) (a) *The retirement allowance for a member of the Kentucky Employees Retirement System shall be calculated by using the member's known creditable compensation prior to his or her last month's employment and an estimate of his or her creditable compensation during the last month he or she was employed. Based upon this calculation, the State Treasurer shall be requested to issue the initial retirement payment.*
- (b) *A new calculation shall be made when the official report has been received of the member's creditable compensation during his or her last month's employment. However, the retirement allowance determined in accordance with paragraph (a) of this subsection shall be the official retirement allowance unless the new calculation derives an amount which is two dollars (\$2) greater or less than the amount of the initial retirement payment. If the member or beneficiary chose an actuarial equivalent refund payment option, the amount of estimated retirement allowance shall be the official retirement allowance unless the new calculation produces an amount which is one hundred dollars (\$100) greater or less than the amount of the initial retirement payment.*

➔SECTION 12. A NEW SECTION OF KRS 21.345 TO 21.580 IS CREATED TO READ AS FOLLOWS:

- (1) *A member of the Legislators' Retirement Plan or the Judicial Retirement Plan, whose participation in the Legislators' Retirement Plan or the Judicial Retirement Plan begins on or after January 1, 2014, shall receive the retirement benefits provided by this section in lieu of the retirement benefits provided under Sections 15 and 24 of this Act. The retirement benefit provided by this section shall be known as the hybrid*

cash balance plan and shall operate as another benefit tier within the Legislators' Retirement Plan and the Judicial Retirement Plan.

- (2) *The hybrid cash balance plan shall provide a retirement benefit based upon the member's accumulated account balance, which shall include:*
 - (a) *Contributions made by the member as provided by KRS 6.500 to 6.577 and 21.345 to 21.580, except for employee contributions prescribed by subsection (1)(d)2.b. of Section 13 and subsection (1)(a)3.b. of Section 20 of this Act;*
 - (b) *An employer pay credit of four percent (4%) of the creditable compensation earned by the employee for each month the employee is contributing to the hybrid cash balance plan provided by this section; and*
 - (c) *Interest credits added annually to the member's accumulated account balance as provided by this section.*
- (3)
 - (a) *Member contributions and employer pay credits as provided by subsection (2)(a) and (b) of this section shall be credited to the member's account monthly as contributions are reported and posted to the plan.*
 - (b) *Interest credits, as provided by subsection (2)(c) of this section, shall be credited to the member's account annually on June 30 of each fiscal year, as determined by subsection (4) of this section.*
- (4)
 - (a) *On June 30 of each fiscal year, the system shall determine if the member contributed to the hybrid cash balance plan during the fiscal year.*
 - (b) *If the member contributed to the hybrid cash balance plan during the fiscal year, the interest credit added to the member's account for that fiscal year shall be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by a percentage increase equal to:*
 1. *Four percent (4%); plus*
 2. *Seventy-five percent (75%) of the plan's geometric average net investment return in excess of a four percent (4%) rate of return.*
 - (c) *If the member did not contribute to the hybrid cash balance plan during the fiscal year, the interest credit added to the member's account for that fiscal year shall be determined by multiplying the member's accumulated account balance on June 30 of the preceding fiscal year by four percent (4%).*
 - (d) *For purposes of this subsection, "plan's geometric average net investment return":*
 1. *Means the annual average geometric investment return, net of administrative and investment fees and expenses, over the last five (5) fiscal years as of the date the interest is credited to the member's account; and*
 2. *Shall be expressed as a percentage and based upon the plan in which the member has an account.*
 - (e) *No employer pay credits or interest credits shall be provided to a member who has taken a refund of contributions as provided by KRS 21.460 or who has retired and annuitized his or her accumulated account balance as prescribed by this section.*
- (5)
 - (a) *Upon termination of employment, a member who has less than five (5) years of service credited under the Legislators' Retirement Plan and the Judicial Retirement Plan, who elects to take a refund of his or her accumulated account balance as provided by KRS 21.460, shall forfeit the accumulated employer credit, and shall only receive a refund of his or her accumulated contributions.*
 - (b) *Upon termination of employment, a member who has five (5) or more years of service credited under the Legislators' Retirement Plan and the Judicial Retirement Plan, who elects to take a refund of his or her accumulated account balance as provided by KRS 21.460, shall receive a full refund of his or her accumulated account balance.*
- (6) *A member participating in the hybrid cash balance plan provided by this section may retire:*

- (a) *Upon reaching normal retirement age, provided he or she has earned five (5) or more years of service credited under the Legislators' Retirement Plan and the Judicial Retirement Plan, or another state-administered retirement system; or*
 - (b) *If the member is at least age fifty-seven (57) and has an age and years of service total of at least eighty-seven (87) years. The years of service used to determine eligibility for retirement under this paragraph shall only include years of service credited under the Legislators' Retirement Plan and the Judicial Retirement Plan, or another state-administered retirement system.*
- (7) *A member eligible to retire under subsection (6) of this section may elect to:*
- (a) *Receive a monthly retirement allowance payable for life by having his or her accumulated account balance annuitized by the retirement systems in accordance with the actuarial assumptions and actuarial methods adopted by the board and in effect on the member's retirement date;*
 - (b) *Receive the actuarial equivalent of his or her retirement allowance calculated under paragraph (a) of this subsection payable under one (1) of the options set forth in subsection (8)(b) of Section 27 of this Act; or*
 - (c) *Take a refund of his or her account balance as provided by KRS 21.460.*
- (8) *The board of the Judicial Form Retirement System shall establish individual members' accounts for each member participating in the hybrid cash balance plan as provided by this section. The Judicial Form Retirement System may promulgate administrative regulations in accordance with KRS Chapter 13A to administer the provisions of this section.*
- (9) *The provisions of this section shall not apply to members who began participating in the Legislators' Retirement Plan or the Judicial Retirement Plan prior to January 1, 2014.*

➔Section 13. KRS 6.505 is amended to read as follows:

- (1) (a) Each legislator in office on July 1, 1980, may within thirty (30) days after that date, and any legislator thereafter taking office may within thirty (30) days after the date thereof, elect to make monthly contributions to the Legislators' Retirement Plan, in an amount equal to five percent (5%) of his monthly creditable compensation, as defined in KRS 61.510(13). The election shall be effective to establish membership in the plan as of July 1, 1980, or as of the date from which the thirty (30) day period is measured, as the case may be. Provided, however, that any legislator who was in office on July 1, 1980, and who is in office at the time he makes the election may, after the expiration of the thirty (30) day period and until May 1, 1982, make the election, in which event he shall pay to the Legislators' Retirement Plan, for the months between July 1, 1980, and the date of his election such sum as, when added to any member's contribution by him that is transferred from another retirement system under KRS 6.535, will equal the member's contribution required by this section. If the member makes his election after February 1, 1981, he shall in addition pay to the plan interest on the foregoing sum, at six percent (6%) per annum, calculated as if the sum consisted of equal monthly payments, one (1) of which was due at the end of each month between July 1, 1980, and the date the election was made. The election shall be addressed to and filed with the secretary of the Finance and Administration Cabinet and shall constitute an authorization to the secretary to thereafter cause to be deducted from the member's monthly creditable compensation an amount equal to five percent (5%) thereof, as a voluntarily elected contribution by the member towards the funding of the Legislators' Retirement Plan.
- (b) 1. *For a member who begins participating in the Legislators' Retirement Plan prior to January 1, 2014, the ~~Such~~ election shall operate to create an inviolable contract between such member and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under KRS 6.515 to 6.530.*
2. a. *For members who begin participating in the Legislators' Retirement Plan on or after January 1, 2014, the General Assembly reserves the right to amend, suspend, or reduce the benefits and rights provided under KRS 6.500 to 6.577 if, in its judgment, the welfare of the Commonwealth so demands, except that the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall not be affected.*
- b. *For purposes of this subparagraph, the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall be limited to the accumulated*

account balance the member has accrued at the time of amendment, suspension, or reduction.

- c. *The provisions of this subsection shall not be construed to limit the General Assembly's authority to change any other benefit or right specified by KRS 6.500 to 6.577, for members who begin participating in the Legislators' Retirement Plan on or after January 1, 2014, except the benefits specified by subparagraph 2.b. of this paragraph.*
3. *The provisions of this paragraph shall not be construed to limit the General Assembly's authority to amend, reduce, or suspend the benefits and rights of members of the Legislators' Retirement Plan as provided by KRS 6.500 to 6.577 that the General Assembly had the authority to amend, reduce, or suspend, prior to the effective date of this Act.*
- (c) An election once made under this section either to participate or not to participate in the Legislators' Retirement Plan, shall be considered to apply to all future service as a legislator, whether in the same or a different office as a legislator, and whether or not it is in successive terms.
 - (d) Notwithstanding the provisions of this subsection:
 1. A legislator who becomes a member of the Legislators' Retirement Plan on or after September 1, 2008, *but prior to January 1, 2014*, shall make monthly contributions to the Legislators' Retirement Plan in an amount equal to six percent (6%) of his monthly creditable compensation, as defined in KRS 61.510(13).
 2. *A legislator who becomes a member of the Legislators' Retirement Plan on or after January 1, 2014, shall make monthly contributions to the Legislators' Retirement Plan in an amount equal to six percent (6%) of his or her monthly creditable compensation, as defined in KRS 61.510(13), of which:*
 - a. *Five percent (5%) of his or her monthly creditable compensation, as defined in KRS 61.510(13), shall be used to provide funding for benefits provided under Section 12 of this Act; and*
 - b. *One percent (1%) of his or her monthly creditable compensation, as defined in KRS 61.510(13), shall be used exclusively to help fund retiree health benefits as provided by Section 18 of this Act and shall not be refunded to the member if the member withdraws his or her accumulated account balance as provided by Section 30 of this Act. The amounts deducted under this subdivision shall be credited to an account established pursuant to 26 U.S.C. sec. 401(h), within the fund established by KRS 6.350.*
- (2) A legislator entitled to elect membership in the retirement system who failed to elect membership within thirty (30) days after taking office may elect membership not later than August 31, 2005. An election, upon being made pursuant to this section, shall operate to create an inviolable contract between the member *entitled to elect membership under this subsection* and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under the terms and conditions of KRS 6.500 to 6.577.
 - (3) When any legislator makes a delayed election of membership in the Legislators' Retirement Plan under subsection (2) of this section, his active membership in the Kentucky Employees Retirement System shall terminate, as of the date his membership in the Legislators' Retirement Plan becomes effective, and any credit in the Kentucky Employees Retirement System, earned for service as a legislator, which he then has or which he subsequently regains while being an active member of the Legislators' Retirement Plan, shall be transferred to and counted as service credit in the Legislators' Retirement Plan, and shall no longer constitute credit in the Kentucky Employees Retirement System, except for the purpose of validating any other credit in that system if the member pays the difference, if any, between the amount transferred from the Kentucky Employees Retirement System and the actuarial value of the transferred service. However, any credit he then has in the Kentucky Employees Retirement System, earned for service in any capacity other than a legislator, shall not be affected. No person may attain credit in more than one (1) of the retirement plans or systems mentioned in this section for the same period of service. When credit is transferred from the Kentucky Employees Retirement System to the Legislators' Retirement Plan, the Kentucky Employees Retirement System shall transfer to the Legislators' Retirement Fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to the date of transfer at the actuarially assumed interest rate of the Kentucky Employees Retirement System in effect at the time the contributions were made, compounded annually at that same interest rate.

- (4) The state shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The state shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 6.500 to 6.535 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.
- (5) When any legislator elects membership in the Legislators' Retirement Plan in accordance with this section, his active membership in the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or Teachers' Retirement System shall terminate, as of the date his membership in the Legislators' Retirement Plan becomes effective, and any credit in such other system or systems, earned for service as a legislator, which he then has or which he subsequently regains while being an active member of the Legislators' Retirement Plan, shall be transferred to and counted as service credit in the Legislators' Retirement Plan, and shall no longer constitute credit in such other retirement system except for the purpose of validating any other credit in that system. However, any credit he then has in such other retirement system, earned for service in any capacity other than a legislator, shall not be affected. No person may attain credit in more than one (1) of the retirement plans or systems mentioned in this section, for the same period of service.
- (6) A member of the Legislators' Retirement Plan who would be entitled, under KRS 61.552, to repurchase credit in the Kentucky Employees Retirement System, for previous service as a legislator, which credit had been lost by refund of contributions, may pay the amount required by KRS 61.552 directly to the Legislators' Retirement Plan and thereby obtain credit in that plan for such service, rather than making payment to the Kentucky Employees Retirement System for credit which would be transferred to the Legislators' Retirement Plan. In such event, the Kentucky Employees Retirement System shall transfer to the Legislators' Retirement Plan an amount equal to the employer's contributions that originally were made to the Kentucky Employees Retirement System for the regained service credit, with interest as provided in KRS 6.535. Six (6) months' current service shall be required in the Legislators' Retirement Plan in order for the repurchased credit to remain in force, the same as provided in KRS 61.552. ***Service purchased under this subsection on or after January 1, 2014, shall not be used to determine the member's participation date in the Legislators' Retirement Plan.***

➔Section 14. KRS 6.515 is amended to read as follows:

- (1) Service credit in the Legislators' Retirement Plan shall be acquired only by service as a legislator after July 1, 1980, while a member of the plan, by transfer of credit as provided in KRS 6.505, or by purchase or transfer of credit as provided in this section.
- (2) (a) 1. Any active member ***who began participating in***~~of~~ the Legislators' Retirement Plan ***prior to January 1, 2014***, who has at least five (5) years of service credit in the Legislators' Retirement Plan, or his beneficiary acting in his place if the member dies prior to retirement, shall receive service credit for a maximum of four (4) years for his period of service in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service by any other retirement system administered by the Commonwealth of Kentucky, by paying the retirement system thirty-five percent (35%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the legislator in question under KRS 6.520. Service credit awarded under this subsection shall be equivalent, for all purposes of the Legislators' Retirement Plan, to other service credit earned in the plan.
2. Any active member ***who began participating in***~~of~~ the Legislators' Retirement Plan ***prior to January 1, 2014***, who has at least five (5) years of service credit in the Legislators' Retirement Plan may purchase and receive service credit for one (1) month of service for each six (6) months of service in the reserves or the National Guard by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on the assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the legislator

in question under KRS 6.520. Service credit awarded as provided in this subsection shall be equivalent, for all purposes of the Legislators' Retirement Plan, to other service credit earned in the plan. The service in the military reserves or the National Guard shall be treated as service earned prior to participation in the plan. The purchase can be made by the member by transfer, if authorized under subsection (7)(d) of this section, or in a lump-sum payment or by installment payments, as set forth in paragraph (b) of this subsection. The payment shall not be picked up by the employer as provided in KRS 6.505(4).

- (b) The member, *if the member began participating in the Legislators' Retirement Plan prior to January 1, 2014*, may purchase all of his military service credit at one (1) time, or in increments of no less than one (1) year, unless there is a fraction remaining after all full years have been paid for. Payment of the total or the increment may be made by lump-sum or by monthly installments through payroll deduction. If the member chooses to pay by installment, the cost of the service credit shall be computed in the same manner as for a lump-sum payment, which shall be the principal. Interest, at the annual actuarial rate in effect at the time each payment is made, shall be added to each monthly payment at the rate of one-twelfth (1/12) of the annual interest rate applied to the declining principal amount. Installment purchases shall be for no less than twelve (12) nor more than sixty (60) months. If the member leaves office before completing his installment payments, he may satisfy his contract by a lump-sum payment of the remaining principal amount, but no further installment payments shall be accepted thereafter. In this case, the member shall be credited with the military service credit for which he has paid, in years or months but no fraction less than a full month, and any payment remaining after credit for full months has been awarded shall be returned to the member.
 - (c) The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(4).
- (3) In the event of divorce, rights to benefits shall be considered marital property subject to the provisions of KRS 403.190.
- (4) A member *who began participating in the Legislators' Retirement Plan prior to January 1, 2014*, who has qualified for benefits under KRS 6.525(1) may transfer to the Legislators' Retirement Plan up to ten (10) years of service credit which he has earned in a retirement system administered by Kentucky Retirement Systems. If the member elects to transfer his service credit, the system from which the transfer is made shall transfer to the legislators' retirement fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to date of transfer at the actuarially assumed interest rate of the system from which the transfer is made in effect at the time the contributions were made, compounded annually at that same interest rate. The member shall be entitled to the transferred service credit, at the rate at which he qualifies under KRS 6.520, when he pays the total difference between the amount of the funds transferred and the cost of the credit to the Legislators' Retirement Plan, as determined by the actuary for the Legislators' Retirement Plan. The member may pay by transfer, if authorized under subsection (7)(d) of this section, by lump sum, or by increments, as provided for in this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(4).
- (5) (a) Any active member *who began participating in*~~off~~ the Legislators Retirement Plan *prior to January 1, 2014*, who is vested in the Legislators Retirement Plan under KRS 6.525 shall receive service credit for a maximum of four (4) years each for his period of service as a Domestic Relations Commissioner, a Master Commissioner, or a District Court Trial Commissioner of the Commonwealth of Kentucky, or a combination thereof, if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 6.520. Service credit awarded under this subsection shall be equivalent, for all purposes of the Legislators Retirement Plan, to other service credit earned in the plan. The member may pay by transfer, by lump sum, or by increments as set forth in this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(4).
- (b) Any active member *who began participating in*~~off~~ the Legislators Retirement Plan *prior to January 1, 2014*, who is vested in the Legislators Retirement Plan under KRS 6.525, shall receive service credit for

his period of service to the United States Government, other than service in the Armed Forces, if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 6.520. Service credit awarded under this subsection shall be equivalent, for all purposes of the Legislators Retirement Plan, to other service credit earned in the plan. The member may pay by transfer, by lump sum, or by increments as set forth in this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(4).

- (c) Any member *who began participating in*~~of~~ the Legislators Retirement Plan *prior to January 1, 2014*, who *was*~~is~~ in office on June 21, 2001, and who *was*~~is~~ in active contributing status to the applicable retirement plan on June 21, 2001, and who has at least one hundred eighty (180) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit that is not otherwise purchasable, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The member shall be entitled to the service credit at the rate at which he qualifies under KRS 6.520. Service credit awarded under this subsection shall be equivalent, for all purposes of the Legislators Retirement Plan, to other service credit earned in the plan, except that the service purchased under this subsection shall not be used in determining a retirement allowance until the member has accrued at least two hundred forty (240) months of service, excluding service purchased under this subsection. If the member does not accrue at least two hundred forty (240) months of service, excluding service purchased under this subsection, then upon retirement, death, or written request following termination, the payment shall be refunded. The member may pay by transfer, by lump sum, or by increments as set forth in this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(4).
- (d) A member *who began participating in*~~of~~ the Legislators Retirement Plan *prior to January 1, 2014*, may purchase service credit under the provisions of this section by transferring funds through a direct trustee-to-trustee transfer as permitted under the applicable sections of the Internal Revenue Code and any regulations or rulings issued thereunder or through a direct rollover as contemplated by and permitted under 26 U.S.C. sec. 401(a)(31) and any regulations or rulings issued thereunder. Service credit may also be purchased by a rollover of funds pursuant to and permitted under the rules specified in 26 U.S.C. sec. 402(c) and 26 U.S.C. sec. 408(d)(3). The Legislators Retirement Fund shall accept the transfer or rollover to the extent permitted under the rules specified in the applicable provisions of the Internal Revenue Code and any regulations and rulings issued thereunder. The amount shall be credited to the individual member's ~~contribution~~ account and shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(4).

➔Section 15. KRS 6.520 is amended to read as follows:

- (1) A member of the Legislators' Retirement Plan who retires on or after his normal retirement date shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to three and fifty one-hundredths percent (3.50%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the member for services as a legislator for the three (3) years during which the member had the highest creditable legislative compensation.
- (2) A member shall have rights, with respect to retirement before reaching normal retirement date in the Legislators' Retirement Plan, identical in terms with those rights provided in KRS 21.400(2) and (3) in the Judicial Retirement Plan for members of that plan, except that the reduction in a legislators' service retirement allowance for early retirement shall be at the rate of five percent (5%) of the allowance for each year that retirement precedes the normal retirement date.
- (3) Subsections (1) and (2) of this section to the contrary notwithstanding, each legislator in office on July 1, 1982, that is a member of the Legislators' Retirement Plan, who retires on or after his normal retirement date, shall receive a service retirement allowance, payable monthly, on a formula equal to that of a justice or judge of the Court of Justice with an equivalent service entrance date, but in no event less than that specified in

subsection (1) of this section, of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of his final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the three (3) years during which the member had the highest creditable legislative compensation.

- (4) Subsections (1) and (2) of this section to the contrary notwithstanding, a member of the Legislators' Retirement Plan with a service entrance date after July 1, 1982 *but prior to January 1, 2014*, who retires on or after his normal retirement date, shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to two and seventy-five one-hundredths percent (2.75%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the member for services as a legislator for the three (3) years during which the member had the highest creditable legislative compensation.
- (5) *Subsections (1) to (4) of this section shall not apply to members who begin participating in the Legislators' Retirement Plan on or after January 1, 2014.*

➔Section 16. KRS 6.521 is amended to read as follows:

- (1) As of July 1 of each year, the board of trustees of the Kentucky Judicial Form Retirement System shall recompute the monthly benefits of persons then receiving benefits under the Legislators' Retirement Plan, by using the following formula: three and one-half percent (3.5%) times fifty-five percent (55%) of the final compensation of the office in which the credit was earned for a person retiring as of the recomputation date, times the number of years of service credit (not to exceed twenty-eight (28) years). In making the recomputation, the same reduction factor, in case of an actuarially reduced benefit or a surviving spouse's benefit, shall be used as was used in determining the benefit then being received. If the benefit as recomputed in accordance with this section is higher than the benefit then being received, the recomputed benefit shall thereafter be paid monthly, commencing as of the date specified for the recomputation, subject to future adjustment at ensuing recomputations in accordance with this section.
- (2) Effective August 1, 1998, to July 1, 2008, a recipient of a monthly pension benefit from the Legislators' Retirement Plan shall have his or her benefit increased on July 1 of each year by the percentage increase in the annual average of the consumer price index for all urban consumers for the most recent calendar year as published by the Federal Bureau of Labor Statistics, not to exceed five percent (5%). In determining the state's appropriation to the Legislators' Retirement Fund, only the costs of increases granted as of the most recent valuation date shall be recognized. The benefits of this subsection as provided on August 1, 1998, to July 1, 2008, shall not be considered as benefits protected by the inviolable contract provisions of KRS 6.505. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in its judgment the welfare of the Commonwealth so demands.
- (3) (a) Effective July 1, 2009, and on July 1 of each year thereafter, a recipient of a monthly pension benefit from the Legislators' Retirement Plan shall have his or her benefit increased by one and one-half percent (1.5%), *if:*
1. *The funding level of the plan is greater than one hundred percent (100%) and subsequent legislation authorizes the use of any surplus actuarial assets to provide an increase in retirement allowances described by this subsection; or*
 2. *The General Assembly appropriates sufficient funds to fully prefund the increase described by this subsection in the year the increase is provided.*
- (b) *The board of trustees of the Kentucky Judicial Form Retirement System shall, at least thirty (30) days prior to the beginning of regular sessions of the General Assembly held in even-numbered years, advise the General Assembly of the following:*
1. *Whether the plan has a funding level greater than one hundred percent (100%) and if the plan can support an increase in recipients' retirement allowances as provided by paragraph (a) of this subsection over the next budget biennium without reducing the funding level of the plan below one hundred percent (100%); and*
 2. *If no surplus actuarial assets are available, the level of funds needed to fully prefund an increase for plan recipients over the next budget biennium if a one and one-half percent (1.5%) increase is provided annually over the biennium.*

- (c) *For purposes of this subsection, "funding level" means the actuarial value of assets divided by the actuarially accrued liability expressed as a percentage that is determined and reported by the plan's actuary in the plan's actuarial valuation.*
 - (d) *The full increase described by this subsection shall only be provided if the recipient has been receiving a retirement benefit for at least twelve (12) months prior to the effective date of the increase. If the recipient has been receiving a benefit for less than twelve (12) months prior to the effective date of the increase provided by this subsection, the increase shall be reduced on a pro rata basis for each month the recipient has not been receiving a benefit in the twelve (12) months preceding the effective date of the increase.*
 - (e) In determining the state's appropriation to the Legislators' Retirement Fund, only the costs of increases granted as of the most recent valuation date shall be recognized.
 - (f) The benefits of this subsection as provided on July 1, 2009, and thereafter shall not be considered as benefits protected by the inviolable contract provisions of KRS 6.505. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in its judgment the welfare of the Commonwealth so demands.
- (4) In addition to the increase to a recipient's retirement allowance as provided by subsection (3) of this section, the General Assembly may, by subsequent legislation, provide supplemental increases to a recipient's retirement allowance to help adjust for actual changes in the recipient's cost of living if the General Assembly appropriates sufficient funds to fully prefund the benefit in the year the increase is provided.

➔Section 17. KRS 6.525 is amended to read as follows:

The Legislators' Retirement Plan shall be governed by KRS 21.560 and by provisions identical in terms with those provided in *Section 12 of this Act*, KRS 21.345(1), ~~and 21.345(3) to (6)~~, 21.360(1), 21.370 to 21.410, 21.420, 21.425, 21.450, 21.460, 21.470, 21.480, 21.525, 21.540, and 61.552 for the Judicial Retirement Plan, except that:

- (1) Five (5) years of service as a legislator will be sufficient for vesting; and
- (2) (a) A member of the Legislators' Retirement Plan may combine his service credit with his service credit in the Teachers' Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System at the time of his retirement, according to the procedure of KRS 61.680(2)(a), except that the salary used to determine final compensation, *if applicable*, shall be based on the creditable compensation in KRS 61.510(13) for service while a member of the General Assembly whether or not a member of the Legislators' Retirement Plan.
- (b) For members contributing on or after June 20, 2005 *but prior to January 1, 2014*:~~;~~ upon retirement, a member's accounts under the Legislators' Retirement Plan, State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and Teachers' Retirement System shall be consolidated for the purpose of determining eligibility and amount of benefits as provided in KRS 61.680(2)(a) and in the same manner as for the other retirement systems using the highest salary regardless of the system in which it was earned. For purposes of this paragraph, "retirement" means the month in which the member elects to begin receiving benefits or benefits become payable due to the member's death.
- (c) A member who has an account in the Legislators' Retirement Plan and the Judicial Retirement Plan may combine his service in both plans for purposes of determining:
 - 1. Eligibility ~~and~~ the amount of benefits; and
 - 2. Final compensation, *provided the member began participating in the Legislators' Retirement Plan prior to January 1, 2014.*
- (d) A member *who began participating in*~~of~~ the Legislators' Retirement Plan *prior to January 1, 2014*, may retire at the completion of twenty-seven (27) or more years of combined service credit, so long as at least fifteen (15) years of such credit were earned after January 1, 1960, and there shall be no reduction in the retirement allowance because of retirement before the age of sixty-five (65).
- (e) For the purposes of this section, any reference in the KRS sections listed above to the Judicial Retirement Plan shall also be read as a reference to the Legislators' Retirement Plan, and any reference to the Legislators' Retirement Plan shall also be read as a reference to the Judicial Retirement Plan.

- (3) Any other statute to the contrary notwithstanding, a member of any state-administered retirement system who has ceased to qualify for membership but subsequently returns to a qualified status, shall, for the purposes of determining the date of entry into the state-administered retirement system for the subsequent period or periods of service, be deemed to have never left the retirement system.

➔Section 18. KRS 6.577 is amended to read as follows:

- (1) The board of trustees of the Judicial Form Retirement System shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Legislators' Retirement Plan. The board may authorize present and future recipients of a retirement allowance from the Legislators' Retirement Plan who are under age sixty-five (65) to be included in the state employees group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status. For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky, the board shall provide a medical insurance premium reimbursement plan as described in subsection (5) of this section.
- (2) Each employer participating in the Legislators' Retirement Plan shall contribute to the plan the amount necessary to provide hospital and medical insurance as provided for under this section. The employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of the total employer contribution rate to the Legislators' Retirement Plan.
- (3) (a) Depending on the months of service credit on which the retirement allowance was based, provided that there are at least forty-eight (48) months, all or a portion of the premium required to provide hospital and medical benefits under this section shall be paid in full from the insurance fund established by KRS 6.575 for all recipients of a retirement allowance from the Legislators' Retirement Plan as follows:

Months of Service	Percentage Paid
48 to 119, inclusive	25%
120 to 131, inclusive	50%
132 to 143, inclusive	55%
144 to 155, inclusive	60%
156 to 167, inclusive	65%
168 to 179, inclusive	70%
180 to 191, inclusive	75%
192 to 203, inclusive	80%
204 to 215, inclusive	85%
216 to 227, inclusive	90%
228 to 239, inclusive	95%
240 or more	100%

This paragraph shall not apply to members who begin participating in the Legislators' Retirement Plan on or after January 1, 2014.

- (b) ***For members who begin participating in the Legislators' Retirement Plan on or after January 1, 2014:***
 - 1. ***Participation in the health insurance coverage and benefits provided under this section shall not be allowed until the member has earned at least one hundred eighty (180) months of service credited under KRS 6.500 to 6.577 or another state-administered retirement system.***
 - 2. ***A member who meets the minimum service requirements as provided by subparagraph 1. of this paragraph shall be eligible for a monthly insurance benefit upon retirement of ten dollars (\$10) for each year of service as a participating member of the Legislators' Retirement Plan.***
 - 3. ***The minimum service required to participate in benefits as provided by subparagraph 1. of this subparagraph shall be waived for a member who is disabled in the line of duty as defined in KRS 61.621, and the member shall be entitled to the health benefits payable under this***

subsection as though the member has twenty (20) years of service in the Legislators' Retirement Plan.

4. *The minimum service required to participate in benefits as provided by subparagraph 1. of this subparagraph shall be waived for a member who is killed in the line of duty as described in KRS 61.621, and the member's spouse and eligible dependents shall be entitled to the health benefits the member would have received if he or she had retired with twenty (20) years of service in the Legislators' Retirement Plan.*
 5. *The monthly insurance contribution amount provided by this paragraph shall be increased July 1 of each year by one and one-half percent (1.5%). The increase shall be cumulative and shall continue to accrue after the member's retirement for as long as a monthly insurance contribution is payable to the retired member.*
- (c) The payments *for health insurance provided by this subsection* shall be made from the fund only if the recipient agrees to pay the remaining ~~amount~~~~percentage~~, if any, from his monthly retirement allowance or by any other method equally insuring payment by him. "Months of service" as used in this section shall not include service added to determine disability benefits.
- (4) *Provided the member began participating in the Legislators' Retirement Plan prior to January 1, 2014*, the insurance fund shall pay the same percentage of the premium for the spouse and dependents of a recipient, or the beneficiary of the recipient, as the fund pays or paid for the member. *No payment shall be made under this section to a spouse, dependent, or beneficiary of a member who begins participating in the Legislators' Retirement Plan on or after January 1, 2014, except as authorized by subsection (3)(b)4. of this section.*
 - (5) The board shall establish a medical insurance premium reimbursement plan for recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance premiums at the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly contribution determined by the board of trustees. The plan shall not be made available if all recipients are eligible for the same level of coverage as recipients living in Kentucky.
 - (6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.
 - (7) Notwithstanding any other statute to the contrary, any member with *the minimum number of months of legislative service required by subsection (3) of this section*~~at least forty eight (48) months of legislative service~~ who is also eligible for benefits, or who is receiving benefits from any retirement plan or system administered by the Commonwealth shall be entitled to hospital and medical benefits as described in subsection (3) of this section, except that the number of months of service credit used in calculating the level of benefits shall be the sum of the service credited to the member in all the state-administered retirement systems or plans.
 - (a) Upon request of the member, the Legislators' Retirement Plan shall compute the member's combined service in all the state-administered retirement systems or plans, and calculate the portion of the member's premium to be paid by the Legislators' Retirement Plan, according to the criteria established in subsection (3) of this section. *For members who begin participating in the Legislators' Retirement Plan prior to January 1, 2014*, the state-administered retirement systems or plans shall pay to the Legislators' Retirement Plan the applicable percentage of the plan's costs of the retiree's hospital and medical premium which shall be equal to the percentage of the member's number of months of service in the applicable state-administered retirement system divided by his total combined service. The amounts paid by all the state-administered retirement systems or plans shall not be more than one hundred percent (100%) of the premium amount adopted by the respective boards of trustees.
 - (b) A member who elects hospital and medical benefits under this section shall lose any claim to insurance benefits under any of the other state-administered retirement systems or plans.

➔Section 19. KRS 21.345 is amended to read as follows:

- (1) For the purposes of KRS 21.350 to 21.510, "retirement" means a voluntary resignation or a failure of reelection, but does not include a removal for cause.
- (2) The word "service" as used in KRS 21.370 to 21.480 means service transferred from the Kentucky Retirement Systems pursuant to KRS 21.370(2), service as a city police judge purchased pursuant to KRS 21.370(3), and service as a Justice of the Supreme Court, as a Judge of the Court of Appeals created by Section 111 of the Constitution of Kentucky, as a regular Circuit Judge, or as a regular Judge of the District Court, including service in one (1) and then another of those capacities. It also includes service as a special Circuit Judge under the conditions described in subsection (3) of this section, as a Judge or commissioner of the former Court of Appeals, or as director of the Administrative Office of the Courts, prior to January 1, 1976, and service continuing beyond that date, in any capacity in or for the Court of Justice, by any person who held the office of commissioner of the former Court of Appeals, or director of the Administrative Office of the Courts, on December 31, 1975. The word "service" embraces only service performed while a member of the retirement system established by KRS 21.350 to 21.510, except that service in any of the positions mentioned, before the Judicial Retirement System was made applicable to that category of position, and service transferred from the Kentucky Retirement Systems pursuant to KRS 21.370(2), shall be included.
- (3) For the purposes of KRS 21.345 to 21.510, a "year" of service means a total of twelve (12) months of service, which need not be in the same calendar year. Service for any part of the calendar month in which the member's term of service begins or ends shall be deemed to constitute a month of service.
- (4) *The term "accumulated employer credit" as used in KRS 21.345 to 21.580 means the employer pay credit deposited to the member's account and interest credited on such amounts as provided by Section 12 of this Act.*
- (5) *The term "accumulated contributions" as used in KRS 21.345 to 21.580, means:*
 - (a) *For a member who began participating in the Judicial Retirement Plan prior to January 1, 2014, the contributions made by the member to the Judicial Retirement Plan; and*
 - (b) *For a member who begins participating in the Judicial Retirement Plan on or after January 1, 2014, in the hybrid cash balance plan, the contributions made by the member to the Judicial Retirement Plan and interest credited on such amounts as provided by Section 12 of this Act.*
- (6) *The term "accumulated account balance" as used in KRS 21.345 to 21.580 means:*
 - (a) *For members who began participating in the Judicial Retirement Plan prior to January 1, 2014, the member's accumulated contributions; or*
 - (b) *For members who begin participating in the Judicial Retirement Plan on or after January 1, 2014, in the hybrid cash balance plan as provided by Section 12 of this Act, the combined sum of the member's accumulated contributions and the member's accumulated employer pay credit.*
- (7) The provisions of this section shall not apply to any director of the Administrative Office of the Courts appointed after January 1, 1976, nor shall they apply to any commissioner of the Court of Appeals not appointed prior to January 1, 1976. The administrative director of the courts and commissioners of the Court of Appeals appointed prior to January 1, 1976, shall continue to be members of the system so long as they continue to render service in any capacity in or for the Court of Justice.

➔Section 20. KRS 21.360 is amended to read as follows:

- (1) (a) Each Judge of the District Court in office on July 1, 1978, may within thirty (30) days after that date, and any judge or justice of any court entitled to be a member thereafter taking office may within thirty (30) days after taking office, elect to make monthly contributions to the retirement system in an amount equal to:
 1. Five percent (5%) of his monthly official salary, *if the judge or justice became a member of the Kentucky Judicial Retirement Plan prior to September 1, 2008;*
 2. ~~[except that a judge or justice who becomes a member of the Kentucky Judicial Retirement Plan on or after September 1, 2008, shall make monthly contributions to the retirement system in the amount equal to]~~Six percent (6%) of his or her monthly official salary, *if the judge or justice became a member of the Kentucky Judicial Retirement Plan on or after September 1, 2008, but prior to January 1, 2014; or*

3. ***Six percent (6%) of his or her monthly official salary, if the judge or justice who becomes a member of the Kentucky Judicial Retirement Plan on or after January 1, 2014, which shall be used to fund benefits as follows:***
 - a. ***Five percent (5%) of the monthly official salary shall be used to provide funding for benefits provided under Section 12 of this Act; and***
 - b. ***One percent (1%) of the monthly official salary to be used exclusively to help fund retiree health benefits as provided by Section 29 of this Act and which shall not be refunded to the member if the member withdraws his or her accumulated account balance as provided by Section 30 of this Act. The deducted amounts under this subdivision shall be credited to an account established pursuant to 26 U.S.C. sec. 401(h), within the fund established by KRS 21.347.***
- (b) The election shall be effective to establish membership in the system as of July 1, 1978, or as of the date the judge or justice took office, as the case may be. The election shall be addressed to and filed with the secretary of the Finance and Administration Cabinet, and shall constitute an authorization by the member, to the secretary, to thereafter cause to be deducted from the member's official salary, each month, the amount required by paragraph (a) of this subsection, as a voluntary contribution by the member towards the funding of the retirement system. ***For a member who began contributing to the Judicial Retirement Plan prior to January 1, 2014***, the contribution shall continue until the judge or justice is vested in a service retirement allowance equal to one hundred percent (100%) of final compensation. Thereafter employee contributions shall be discontinued but continued service and retirement benefits shall not be affected thereby.
- (2) A judge or justice entitled to elect membership in the retirement system who failed to elect membership within thirty (30) days after taking office in 1980 or who elected membership in the Kentucky Employees Retirement System may elect membership not later than August 31, 2005. An election, upon being made pursuant to this section, shall operate to create an inviolable contract between the member ***entitled to elect membership under this subsection*** and the Commonwealth, guaranteeing to and vesting in the member the rights and benefits provided for under the terms and conditions of KRS 21.350 to 21.510.
- (3) (a) When any judge makes a delayed election of membership in the Judicial Retirement Plan under subsection (2) of this section, his active membership in the Kentucky Employees Retirement System shall terminate, as of the date his membership in the Judicial Retirement Plan becomes effective, and any credit in the Kentucky Employees Retirement System, earned for service as a judge, which he then has or which he subsequently regains while being an active member of the Judicial Retirement Plan, shall be transferred to and counted as service credit in the Judicial Retirement Plan, and shall no longer constitute credit in the Kentucky Employees Retirement System, except for the purpose of validating any other credit in that system, if the member pays the difference, if any, between the amount transferred from the Kentucky Employees Retirement System and the actuarial value of the transferred service.
- (b) Any credit he then has in the Kentucky Employees Retirement System, earned for service in any capacity other than a judge, shall not be affected. Notwithstanding any provisions of KRS 61.680 to the contrary, final compensation used to determine benefits for any service credit remaining in the Kentucky Employees Retirement System shall be based on the highest years of compensation as a judge whether the years occur before or after the judge elects membership in the Judicial Retirement Plan.
- (c) No person may attain credit in more than one (1) of the retirement plans or systems mentioned in this section for the same period of service. When credit is transferred from the Kentucky Employees Retirement System to the Judicial Retirement Plan, the Kentucky Employees Retirement System shall transfer to the Judicial Retirement Fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to the date of transfer at the actuarially-assumed interest rate of the Kentucky Employees Retirement System in effect at the time the contributions were made, compounded annually at that same interest rate.
- (4) Membership and benefit rights for judges and justices (other than Judges of the District Court), and for the commissioners and administrative director, who took office prior to July 1, 1978, shall be dependent upon valid elections having been made under this section (and KRS 21.355 and 21.365) prior to the 1978 amendment to this section. The terms of such elections, including the contribution rate, shall continue to govern for the duration of the member's service.

- (5) When any Judge of the District Court in office on July 1, 1978, elects membership in the Judicial Retirement System in accordance with this section, his membership in the Kentucky Employees Retirement System shall terminate as of July 1, 1978, and any credit in that system he earned for service as a Judge of the District Court shall be nullified; provided that the effect of such service to validate any other service credit in that system shall not be nullified.
- (6) The state shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. The state shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 21.345 to 21.570 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.
- (7) An election once made under this section, either to participate or not to participate in the Judicial Retirement Plan, shall be considered to apply, to all future service in any office covered by the plan, whether such service is in the same or a different office, and whether or not it is continuous.

➔Section 21. KRS 21.370 is amended to read as follows:

- (1) (a) Except as provided in subsection (2) of KRS 21.410 and in subsection (2) of KRS 21.420, no benefits shall be payable under KRS 21.350 to 21.480 to any member *who began participating in the Judicial Retirement Plan prior to January 1, 2014*, or to his surviving spouse, unless he has completed at least eight (8) years of service, including service before becoming a member.
- (b) No surviving spouse of a retired member shall be entitled to any benefits unless the person was the spouse of the member at the time he retired.
- (2) A member *who began participating in the Judicial Retirement Plan prior to January 1, 2014*, who has qualified for benefits under this section may transfer to the Judicial Retirement Plan up to ten (10) years of service credit which he has earned in a retirement system administered by Kentucky Retirement Systems, and he may transfer to the Judicial Retirement Plan up to ten (10) years of service credit which he has earned in the Kentucky Legislators' Retirement Plan. If the member elects to transfer his service credit, the system or plan from which the transfer is made shall transfer to the judicial retirement fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to the date of transfer at the actuarially assumed interest rate of the system or plan from which the transfer is made in effect at the time the contributions were made, compounded annually at that same interest rate. The member shall be entitled to the transferred service credit, at the rate at which he qualifies under KRS 21.400, when he pays the total difference between the amount of the funds transferred and the cost of the credit to the Judicial Retirement Plan, as determined by the actuary for the Judicial Retirement Plan. The member may pay by transfer, if authorized under subsection (5)(d) of this section, or by lump sum or increments as set forth in subsection (4)(b) of this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).
- (3) Any active member *who began participating in*~~of~~ the Judicial Retirement Plan *prior to January 1, 2014*, who is vested in the Judicial Retirement Plan under subsection (1) of this section or KRS 21.375, shall receive service credit for a maximum of four (4) years for his period of service as a city police judge for a city within the Commonwealth of Kentucky, if the service was performed prior to the first Monday in January, 1978, and if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records of the city for which the service was performed. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the member in question under KRS 21.400. Service credit awarded under this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).

- (4) (a) 1. Any active member *who began participating in*~~in~~ the Judicial Retirement Plan *prior to January 1, 2014*, who is vested in the Judicial Retirement Plan under subsection (1) of this section or KRS 21.375, or his beneficiary acting in his place if the member dies prior to retirement, shall receive service credit for a maximum of four (4) years for his period of service in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service by any other retirement system administered by the Commonwealth of Kentucky, by paying the retirement system thirty-five percent (35%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the member in question under KRS 21.400. Service credit awarded under this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan.
2. Any active member *who began participating in*~~in~~ the Judicial Retirement Plan *prior to January 1, 2014*, who is vested in the Judicial Retirement Plan may purchase and receive service credit for one (1) month of service for each six (6) months of service in the reserves or the National Guard by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question as provided in KRS 21.400. Service credit awarded under this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan. The service in the military reserves or the National Guard shall be treated as service earned prior to participation in the plan. The purchase can be made by the member in a transfer, if authorized under subsection (5)(d) of this section, or by a lump-sum payment or installment payments. The payment shall not be picked up by the employer as provided in KRS 21.360(6).
- (b) The member, *if the member began participating in the Judicial Retirement Plan prior to January 1, 2014*, may purchase all of his military service credit at one (1) time, or in increments of no less than one (1) year, unless there is a fraction remaining after all full years have been paid for. Payment of the total or the increment may be made by lump sum or by monthly installments through payroll deduction. If the member chooses to pay by installment, the cost of the service credit shall be computed in the same manner as for a lump-sum payment, which shall be the principal. Interest, at the annual actuarial rate in effect at the time each payment is made, shall be added to each monthly payment at the rate of one-twelfth (1/12) of the annual interest rate applied to the declining principal amount. Installment purchases shall be for no less than twelve (12) nor more than sixty (60) months. If the member leaves office before completing his installment payments, he may satisfy his contract by a lump-sum payment of the remaining principal amount, but no further installment payments shall be accepted thereafter. In this case, the member shall be credited with the military service credit for which he has paid, in years or months but no fraction less than a full month, and any payment remaining after credit for full months has been awarded shall be returned to the member.
- (c) The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).
- (5) (a) Any active member *who began participating in*~~in~~ the Judicial Retirement Plan *prior to January 1, 2014*, who is vested in the Judicial Retirement Plan under subsection (1) of this section or KRS 21.375 shall receive service credit for a maximum of four (4) years each for his period of service as a Domestic Relations Commissioner, a Master Commissioner, or a District Court Trial Commissioner of the Commonwealth of Kentucky, or a combination thereof, if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 21.400. Service credit awarded under this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan. The member may pay by transfer as set forth in paragraph (d) of this subsection, or by lump sum or increments as set forth in subsection (4)(b) of this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).

- (b) Any active member *who began participating in*~~of~~ the Judicial Retirement Plan *prior to January 1, 2014*, who is vested in the Judicial Retirement Plan under subsection (1) of this section or KRS 21.375 shall receive service credit for his period of service to the United States Government, other than service in the Armed Forces, if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 21.400. Service credit awarded under this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan. The member may pay by transfer as set forth in paragraph (d) of this subsection, or by lump sum or increments as set forth in subsection (4)(b) of this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).
- (c) Any member *who began participating in*~~of~~ the Judicial Retirement Plan *prior to January 1, 2014*, who ~~was~~^{is} in office on June 21, 2001, and who ~~was~~^{is} in active contributing status to the applicable retirement plan on June 21, 2001, and who has at least one hundred eighty (180) months of service credit may purchase a combined maximum total of five (5) years retirement service credit that is not otherwise purchasable, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 21.400. Service credit awarded under this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan, except that the service purchased under this subsection shall not be used in determining a retirement allowance until the member has accrued at least two hundred forty (240) months of service, excluding service purchased under this subsection. If the member does not accrue at least two hundred forty (240) months of service, excluding service purchased under this subsection, then upon retirement, death, or written request following termination, the payment shall be refunded. The member may pay by transfer as set forth in paragraph (d) of this subsection, or by lump sum or increments as set forth in subsection (4)(b) of this section. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).
- (d) A member of the Judicial Retirement Plan may purchase service credit under the provisions of this section by transferring funds through a direct trustee-to-trustee transfer permitted under the applicable sections of the Internal Revenue Code and any regulations or rulings issued thereunder, or through a direct rollover as contemplated by and permitted under 26 U.S.C. sec. 401(a)(31). Service credit may also be purchased by a rollover of funds pursuant to and permitted under the rules specified in 26 U.S.C. sec. 402(c) and 26 U.S.C. sec. 408(d)(3). The Judicial Retirement Fund shall accept the transfer or rollover to the extent permitted under the rules specified in the applicable provisions of the Internal Revenue Code and any regulations and rulings issued thereunder. The amount shall be credited to the individual member's contribution account and shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).

➔Section 22. KRS 21.380 is amended to read as follows:

- (1) The normal retirement date or age of a member shall be his sixty-fifth birthday, *except that*~~but~~ the normal retirement age *for a member who began participating in the Judicial Retirement Plan prior to January 1, 2014*, shall be reduced by one (1) year, but no more than five (5) years total, for:
- (a) Each five (5) years of service credit in the plan; and
- (b) Each year of service credit the member has earned beyond that needed to receive a retirement benefit of one hundred percent (100%) of final compensation.
- (2) KRS 21.350 to 21.480 do not require that a member retire at the normal retirement date.

➔Section 23. KRS 21.385 is amended to read as follows:

- (1) In a situation in which, by reason of federal tax law, the failure to commence the payment of retirement benefits to a vested member of the Kentucky Judicial Retirement Plan, by a specified date after the member reaches a specified age, as designated by the federal tax law, will result in the imposition of a special excise

tax, the member, without retiring, shall be entitled, as of the specified date, to commence drawing from the plan the monthly benefit he would have been entitled to had he retired on that date. Notwithstanding the provisions of KRS 21.360 and 61.680, ~~at the~~ member **who began participating in the Judicial Retirement Plan prior to January 1, 2014**, ~~[at his option,]~~ may, **at his option**, continue to be a participating member of the plan thereafter until he retires, or, may elect to cease to be a participating member of the plan, in which latter event he shall not be required to become a participating member of the Kentucky Employees Retirement System.

- (2) A member drawing benefits from the Kentucky Judicial Retirement Plan pursuant to subsection (1) of this section who elects to continue as a participating member of the plan, or a person drawing benefits from the plan by reason of having retired, who by reason of reemployment again becomes a participating member of the plan, shall continue to draw the benefits until he retires, and accrue additional benefits, but in the calculation of the additional benefits only the years of service after he commenced drawing the initial benefits shall be counted, and the monthly additional benefit shall not exceed such amount as, when added to the initial monthly benefit, will equal the final compensation on which the additional benefit was calculated. The member's surviving spouse, if married to the member at the time of his ultimate retirement, shall be considered to be the surviving spouse with respect to both the additional and the initial benefits.

➔Section 24. KRS 21.400 is amended to read as follows:

- (1) A member **who began participating in the Judicial Retirement Plan prior to January 1, 2014**, who retires on or after his normal retirement date shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to two and seventy-five hundredths percent (2.75%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation, except that for any service performed while a member prior to July 1, 1978, any service prior to July 1, 1962, creditable under KRS 21.345, and any service performed in continued membership (or allowable under KRS 21.410 or 21.420) after June 30, 1978, by a person who was a member on that date, the monthly percentage figure shall be five percent (5%) of his final compensation multiplied by the number of years of his service, and except that for any service performed by a member who elected membership at an annual accrual rate of four and fifteen one hundredths percent (4.15%) and for any service performed in continued membership thereafter (or allowable under KRS 21.410 to 21.420), the benefit, payable monthly during his lifetime shall be an amount equal to four and fifteen one-hundredths percent (4.15%) of his final compensation multiplied by the number of years of his service, and except that allowances heretofore granted, and rights related thereto, shall not be affected by the 1978 or 1980 amendments to this section. For this purpose, "final compensation" means the average monthly compensation of the member for the sixty (60) months of service immediately preceding his retirement, including, in the case of a Circuit Judge, compensation received as special commissioner of the former Court of Appeals. If, at the time of retirement or death of a member his total period of service in one or more positions covered by the system has not amounted to sixty (60) months, his "final compensation" shall be computed as if he had served in the first position he occupied under the system for such period of time as to bring his total service (in all positions) to sixty (60) months. If that category of position was not in existence for that period, it shall be treated as though it had been in existence for that period and as if the compensation paid for the presumed period of existence was at the rate provided for the category when it in fact first was created.
- (2) A member **who began participating in the Judicial Retirement Plan prior to January 1, 2014**, who retires before his normal retirement date shall be vested with the right to receive, when he reaches his normal retirement age, a service retirement allowance computed on the basis of the number of years of his actual service, and payable in accordance with:
- (a) The provisions of subsection (1) of this section; or
 - (b) KRS 21.580 if the member retires as a Senior Status Special Judge while the pilot program created in KRS 21.580 is in effect.
- (3) In lieu of the right provided for in subsection (2) of this section, a member **who began participating in the Judicial Retirement Plan prior to January 1, 2014**, who retires before his normal retirement age may elect, at any time before reaching his normal retirement age, to be paid commencing as of the time of the election a monthly service retirement allowance equal in amount to the monthly allowance that would have become payable under subsection (2) of this section when he reached his normal retirement age, reduced at the rate of five percent (5%) for each year by which his actual age at the time the election is made is lower than the normal retirement age.

- (4) A member *who began participating in the Judicial Retirement Plan prior to January 1, 2014*, who retires before his normal retirement date when his benefit is based on twenty-seven (27) years or more of service in the Judicial Retirement Plan, or if his judicial service credit, when combined with service he has in, or for which he is receiving benefits from, the Legislators' Retirement Plan, the Kentucky Employees Retirement System, County Employees Retirement System, State Police Retirement System, or the Teachers' Retirement System, is equal to twenty-seven (27) years, shall be vested with the right to receive a service retirement allowance computed on the basis of the number of years of his actual service, and payable in accordance with:
- (a) The provisions of subsection (1) of this section; or
 - (b) KRS 21.580 if the member retires as a Senior Status Special Judge while the pilot program created in KRS 21.580 is in effect.
- (5) In lieu of the right provided for in subsection (2) of this section, a member *who began participating in the Judicial Retirement Plan prior to January 1, 2014*, who retires before his normal retirement age may elect, at any time before reaching his normal retirement age, to be paid commencing as of the time of the election, a monthly service retirement allowance equal in amount to the monthly allowance that would have become payable under subsection (2) of this section when he reached normal retirement age, reduced at the rate of five percent (5%) for each year by which his years of service or combined service pursuant to subsection (4) of this section are lower than twenty-seven (27).
- (6) ***Subsections (1) to (5) of this section shall not apply to members who begin participating in the Judicial Retirement Plan on or after January 1, 2014.***

➔Section 25. KRS 21.405 is amended to read as follows:

- (1) As of July 1, 1982, the board of trustees of the Kentucky Judicial Form Retirement System shall recompute the monthly benefits of persons then receiving benefits under the Judicial Retirement Plan by using the same service credit rate and the same number of years of service that were used in computing the benefits then being received but substituting, in lieu of the "final compensation" that was used in the computation of the benefit then being received an amount equal to fifty-five percent (55%) of the final compensation of the office in which the credit was earned for a person retiring as of June 30, 1982.
- (2) As of July 1, 1983, and as of July 1 of each year thereafter, the board of trustees of the Kentucky Judicial Form Retirement System shall recompute the monthly benefits of persons then receiving benefits under the Judicial Retirement Plan by using the following formula: two and three-fourths percent (2.75%) times fifty-five percent (55%) of the final compensation of the office in which the retirement credit was earned for a person retiring as of the recomputation date, times the number of years of service credit (not to exceed thirty-six (36) years).
- (3) In making the recomputations provided for in subsections (1) and (2) of this section, the same reduction factor, in case of an actuarially reduced benefit or a surviving spouse's benefit, shall be used as was used in determining the benefit then being received. If the benefit as recomputed in accordance with subsection (1) or (2) of this section is higher than the benefit then being received, the recomputed benefit shall thereafter be paid monthly, commencing as of the date specified for the recomputation, subject to future adjustment at ensuing annual recomputations in accordance with subsection (2) of this section. For the purposes of this section, the following office equivalents shall be used: Judge of former Court of Appeals - Justice of Supreme Court; any position other than judge or justice that was covered by the Judicial Retirement System - Judge of the present Court of Appeals.
- (4) Effective August 1, 1998, to July 1, 2008, a recipient of a monthly pension benefit from the Kentucky Judicial Retirement Plan shall have his or her benefit increased on July 1 of each year by the percentage increase in the annual average of the consumer price index for all urban consumers for the most recent calendar year as published by the Federal Bureau of Labor Statistics, not to exceed five percent (5%). In determining the state's appropriation to the Judicial Retirement Fund, only the costs of increases granted as of the most recent valuation date shall be recognized. The benefits of this subsection as provided on August 1, 1998, to July 1, 2008, shall not be considered as benefits protected by the inviolable contract provisions of KRS 21.480. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in its judgment the welfare of the Commonwealth so demands.
- (5) (a) Effective July 1, 2009, and on July 1 of each year thereafter, a recipient of a monthly pension benefit from the Kentucky Judicial Retirement Plan shall have his or her benefit increased by one and one-half percent (1.5%), *if*:

1. *The funding level of the plan is greater than one hundred percent (100%) and subsequent legislation authorizes the use of any surplus actuarial assets to provide an increase in retirement allowances described by this subsection; or*
 2. *The General Assembly appropriates sufficient funds to fully prefund the increase described by this subsection in the year the increase is provided.*
- (b) *The board of trustees of the Kentucky Judicial Form Retirement System shall, at least thirty (30) days prior to the beginning of regular sessions of the General Assembly held in even-numbered years, advise the General Assembly of the following:*
1. *Whether the plan has a funding level greater than one hundred percent (100%) and if the plan can support an increase in recipients' retirement allowances as provided by paragraph (a) of this subsection over the next budget biennium without reducing the funding level of the plan below one hundred percent (100%); and*
 2. *If no surplus actuarial assets are available, the level of funds needed to fully prefund an increase for plan recipients over the next budget biennium if a one and one-half percent (1.5%) increase is provided annually over the biennium.*
- (c) *For purposes of this subsection, "funding level" means the actuarial value of assets divided by the actuarially accrued liability expressed as a percentage that is determined and reported by the plan's actuary in the plan's actuarial valuation.*
- (d) *The full increase described by this subsection shall only be provided if the recipient has been receiving a benefit for at least twelve (12) months prior to the effective date of the increase. If the recipient has been receiving a benefit for less than (12) months prior to the effective date of the increase provided by this subsection, the increase shall be reduced on a pro rata basis for each month the recipient has not been receiving benefits in the twelve (12) months preceding the effective date of the increase.*
- (e) *In determining the state's appropriation to the Judicial Retirement Fund, only the costs of increases granted as of the most recent valuation date shall be recognized.*
- (f) *The benefits of this subsection as provided on July 1, 2009, and thereafter shall not be considered as benefits protected by the inviolable contract provisions of KRS 21.480. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in its judgment the welfare of the Commonwealth so demands.*
- (6) *In addition to the increase to a recipient's retirement allowance as provided by subsection (5) of this section, the General Assembly may, by subsequent legislation, provide supplemental increases to a recipient's retirement allowance to help adjust for actual changes in the recipient's cost of living if the General Assembly appropriates sufficient funds to fully prefund the benefit in the year the increase is provided.*

➔Section 26. KRS 21.410 is amended to read as follows:

- (1) (a) *If upon examination of a member under his normal retirement age by one (1) or more qualified physicians employed by the retirement board, it is certified to the satisfaction of the board that such member is so physically or mentally disabled as to be incapacitated for further performance of duty, and that such incapacity is likely to be permanent, the member may retire for disability.*
- (b) 1. *A member who began participating in the Judicial Retirement Plan prior to January 1, 2014, who ~~so~~ retires for disability as provided by this subsection shall be entitled to receive commencing immediately a disability retirement allowance, payable monthly during his disability, in an amount equal to one-half (1/2) of the monthly service retirement allowance he would have received commencing at his normal retirement date if he had continued in service until that date and had then retired, computed however on the basis of his final compensation at time of actual retirement.*
2. *A member who begins participating in the Judicial Retirement Plan on or after January 1, 2014, who retires for disability as provided by this subsection shall be entitled to a disability retirement allowance equal to the higher of twenty percent (20%) of the member's monthly final rate of pay or the retirement allowance determined in the same manner as for retirement at his or her normal retirement date under Section 12 of this Act.*

- (2) (a) A member *who began participating in the Judicial Retirement Plan prior to January 1, 2014*, need not have completed eight (8) years of service in order to be eligible for benefits under subsection (1) of this section.
- (b) *A member who begins participating in the Judicial Retirement Plan on or after January 1, 2014, must have completed at least five (5) years of service in order to apply and be eligible for the disability benefits provided by this section.*
- (3) The retirement board shall cause a member who has been retired for disability and who is still under his normal retirement age to undergo periodic examination by one (1) or more qualified physicians employed by the board, to determine whether he continues to be incapacitated for service of the character required of a judge or commissioner. If upon any such examination it is certified to the satisfaction of the board that the member is no longer so incapacitated, or if the member refuses to submit to examination, the board shall terminate his disability retirement allowance. He shall then be entitled to such rights, if any, under subsection (2) or (3) of KRS 21.400 *or Section 12 of this Act* as he would have been entitled to had he voluntarily retired on the date he was retired for disability.
- (4) Upon reaching his normal retirement age, a member who has been receiving a disability retirement allowance may apply for and receive, in lieu thereof, the service retirement allowance he would have been entitled to receive at normal retirement age had he voluntarily retired on the date he was retired for disability.

→Section 27. KRS 21.420 is amended to read as follows:

- (1) After the death of a member *who began participating in the Judicial Retirement Plan prior to January 1, 2014*, who at the time of his death was receiving a service retirement allowance (other than an actuarially reduced allowance under subsection (3) of KRS 21.400), or was receiving a disability retirement allowance, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of that he was receiving.
- (2) (a) If a member *who began participating in the Judicial Retirement Plan prior to January 1, 2014*, dies before retirement and before reaching normal retirement age, without regard to length of service, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have received commencing at his normal retirement date if he had continued in service until that date and had then retired, computed however on the basis of his final compensation at time of death.
- (b) If a member *who began participating in the Judicial Retirement Plan prior to January 1, 2014*, dies before retirement and after reaching normal retirement age, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have been entitled to, on the basis of his years of service, had he retired on the date of his death.
- (3) If a member *who began participating in the Judicial Retirement Plan prior to January 1, 2014*, dies after retirement and was at the time of his death receiving an actuarially reduced allowance under subsection (3) of KRS 21.400, or was not at the time of his death receiving a retirement allowance but had acquired the vested right under subsection (2) of KRS 21.400 to have received an allowance upon reaching normal retirement age, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have received when he reached normal retirement age.
- (4) A member, or a retiree who has not commenced drawing retirement benefits pursuant to KRS 21.400 *or Section 12 of this Act*, who dies without a spouse or eligible children entitled to survivor's benefits, may designate a beneficiary who shall receive the accumulated contributions *or accumulated account balance* of the member. Absent a designation by the member or retiree, the accumulated contributions *or accumulated account balance* shall be paid to the member's estate.
- (5) A member who commences drawing retirement benefits pursuant to KRS 21.400, ~~or~~ 21.410, *or Section 12 of this Act*, who dies without a spouse or eligible children entitled to survivor's benefits and before the benefits received by the member equal the *accumulated* ~~personal~~ contributions of the member, may designate a beneficiary who shall receive the balance of the accumulated contributions of the member. Any offset of contributions by reason of benefits received shall be deducted from the *accumulated* contributions first made to the system. Absent a designation by the member, the *balance of the* accumulated contributions shall be paid to the member's estate.
- (6) A member *who begins participating in the Judicial Retirement Plan prior to January 1, 2014*, may designate a beneficiary who shall receive the balance of the accumulated contributions of the member, in the event

survivor's benefits are being paid pursuant to subsection (1), (2), or (3) of this section, and the survivor dies prior to receiving benefits equal to the member's contributions. In this event, the provisions of subsection (5) of this section shall apply as to offset and payment.

- (7) A member *who begins participating in the Judicial Retirement Plan prior to January 1, 2014*, may, prior to the drawing of benefits, elect in writing to the executive secretary of the Judicial Form Retirement System, to take an optional retirement allowance which shall be actuarially equivalent to the amount of retirement allowance otherwise payable to the member and the member's spouse. If the member dies after retirement, the option chosen shall prevail over the provisions of subsections (1) and (3) of this section. If the member dies prior to retirement, the option chosen shall prevail over the provisions of subsection (2) of this section. The options shall include:

- (a) Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during the member's lifetime and have the retirement allowance continued after death to the spouse during the lifetime of the spouse.
- (b) Survivorship sixty-six and two-thirds percent (66 2/3%). The member may elect to receive a decreased retirement allowance during the member's lifetime and have two-thirds (2/3) of the retirement allowance continue after death to the spouse during the lifetime of the spouse.

If a retiree, living or deceased, chose either of the optional retirement benefit allowances specified in paragraphs (a) or (b) of this subsection from July 15, 1994, to July 15, 1998, the optional allowance shall be adjusted accordingly, and the new benefit shall commence August 1, 1998. Each recipient of benefits from the plan, who retired from July 15, 1994, to July 15, 1998, shall have a one-time opportunity to select an optional retirement allowance. The election by the recipient shall be prior to August 1, 1998, at which time the new benefit shall commence. The option chosen shall prevail, subsections (1), (2), and (3) of this section notwithstanding.

- (8) *For a member who begins participating in the Judicial Retirement Plan on or after January 1, 2014:*

- (a) *If the member dies prior to drawing a retirement allowance, then the surviving spouse may elect to:*
1. *Take a refund of the member's accumulated account balance or accumulated contributions as provided by Section 12 of this Act; or*
 2. *If the member had at least five (5) years of service in the plan at the time of his or her death, have the member's accumulated account balance annuitized into a monthly benefit payable for life that is equal to the benefit that would have been paid had the member retired immediately prior to his or her date of death and elected to receive benefits payable under the survivorship one hundred percent (100%) option as provided by paragraph (b)1. of this subsection.*

In lieu of the benefits provided by this paragraph to the surviving spouse, the member may elect to have the benefits payable under this paragraph paid to an individual dependent child by completing the forms provided prescribed by the Judicial Form Retirement System. If no surviving spouse or dependent children are eligible to receive benefits, then the provisions of subsection (4) of this section shall apply to the member.

- (b) *If a member dies on or after the date the member begins drawing a retirement allowance, the benefits payable to the surviving spouse shall be based upon whether or not the member elects prior to retirement to receive an optional retirement allowance. The election shall be in writing on the forms prescribed by the Judicial Form Retirement System and shall be actuarially equivalent to the amount of retirement allowance otherwise payable to the member. The optional retirement allowances shall include:*
1. *Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during the member's lifetime and have the retirement allowance continued after death to the spouse during the lifetime of the spouse;*
 2. *Survivorship sixty-six and two-thirds percent (66-2/3%). The member may elect to receive a decreased retirement allowance during the member's lifetime and have two-thirds (2/3) of the retirement allowance continue after death to the spouse during the lifetime of the spouse; or*

3. *Survivorship fifty percent (50%). The member may elect to receive a decreased retirement allowance during the member's lifetime and have one-half (1/2) of the retirement allowance continue after death to the spouse during the lifetime of the spouse.*

In lieu of the benefits provided by this paragraph to the surviving spouse, the member may elect prior to retirement to have the benefits payable under this paragraph paid to an individual dependent child by completing the forms provided prescribed by the Judicial Form Retirement System. If no surviving spouse or dependent children are eligible to receive benefits, then the provisions of subsection (5) of this section shall apply to the member.

- (c) *For purposes of this section a "dependent child" shall mean a child who is less than twenty-one (21) years of age or a disabled child who is eligible for Social Security disability benefits.*

➔Section 28. KRS 21.425 is amended to read as follows:

- (1) In any circumstances in which a surviving spouse would be entitled to any allowance under KRS 21.420, but there is no surviving spouse or the surviving spouse subsequently dies, and there is a surviving child or children of the member under the age of twenty-one (21), or there is a disabled child or children, the monthly allowance that the surviving spouse would have received or was receiving shall be continued, as follows:
 - (a) If the member does not have a disabled child or children, the benefit shall continue until there are no children remaining under the age of twenty-one (21); or
 - (b) If the member has a disabled child or children, the benefit shall continue until the death of the last remaining disabled child.
- (2) A member may designate his child or children under the age of twenty-one (21), or his disabled child or children, to receive the death benefit payable under KRS 21.420 instead of his spouse, or he may designate that his spouse shall receive a percentage of the death benefit, and his child or children under the age of twenty-one (21), or his disabled child or children, shall receive the remainder. The member making such a choice shall designate his beneficiary or beneficiaries in writing to the manager of the Judicial Form Retirement System on a form provided by the manager.
- (3) For purposes of this section, "disabled" means an individual determined by the Social Security Administration to be entitled to total disability benefits.
- (4) ***Subsections (1) to (3) of this section shall not apply to a member who begins participating in the Judicial Retirement Plan on or after January 1, 2014.***

➔Section 29. KRS 21.427 is amended to read as follows:

- (1) (a) The board of trustees of the Judicial Form Retirement System shall arrange by appropriate contract or on a self-insured basis for a group hospital and medical insurance plan for recipients of a retirement allowance from the Judicial Retirement Plan, and their dependents. For recipients, or dependents, eligible for Medicare coverage, the board shall provide Medicare supplement hospital and medical insurance coverage. For recipients, or dependents, not eligible for Medicare coverage, the board shall provide hospital and medical insurance coverage comparable to that provided under the major state employees' group insurance, and the board may arrange for the recipients to be included in the major state employees group. For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky, the board shall provide a medical insurance premium reimbursement plan as described in subsection (3) of this section.
- (b) For the purpose of this section, the "dependent" of a recipient means the spouse or minor children, or both, of a recipient who is a living former member of the Judicial Retirement Plan, or the minor children of a deceased former member whose surviving spouse is the recipient.
- (2) (a) Depending upon the number of months of service credit upon which the retirement allowance was based, and upon there having been at least forty-eight (48) months of judicial service, all or a portion of the premium required to provide hospital and medical benefits under this section shall be paid from the judicial retirement fund, as follows:

Months of Judicial Service	Percentage of Premium
240 or more	100%
180 to 239, inclusive	75%

120 to 179, inclusive	50%
48 to 119, inclusive	25%

This paragraph shall not apply to members who begin participating in the Judicial Retirement Plan on or after January 1, 2014.

- (b) *For members who begin participating in the Judicial Retirement Plan on or after January 1, 2014:*
1. *Participation in the health insurance coverage and benefits provided under this section shall not be allowed until the member has earned at least one hundred eighty (180) months of service credited under KRS 21.345 to 21.580 or another state-administered retirement system.*
 2. *A member who meets the minimum service requirements as provided by subparagraph 1. of this paragraph shall be eligible for a monthly insurance benefit upon retirement of ten dollars (\$10) for each year of service as a participating member of the Judicial Retirement Plan.*
 3. *The minimum service required to participate in benefits as provided by subparagraph 1. of this subparagraph shall be waived for a member who is disabled in the line of duty as defined in KRS 61.621, and the member shall be entitled to the health benefits payable under this subsection as though the member has twenty (20) years of service in the Judicial Retirement Plan.*
 4. *The minimum service required to participate in benefits as provided by subparagraph 1. of this subparagraph shall be waived for a member who is killed in the line of duty as described in KRS 61.621, and the member's spouse and eligible dependents shall be entitled to the health benefits the member would have received if he or she had retired with twenty (20) years of service in the Judicial Retirement Plan.*
 5. *The monthly insurance contribution amount provided by this paragraph shall be increased July 1 of each year by one and one-half percent (1.5%). The increase shall be cumulative and shall continue to accrue after the member's retirement for as long as a monthly insurance contribution is payable to the retired member.*
 6. *Under no circumstances shall the cost of coverage be paid for the spouse, dependents, or beneficiaries of a member who began participating in the Judicial Retirement Plan on or after January 1, 2014, except as provided by subparagraph 4. of this paragraph.*
- (c) The ~~health insurance~~ ~~foregoing~~ payments *provided by this subsection* shall be made by the fund only if the recipient agrees to pay the remaining, if any, ~~amount~~ ~~percentage~~ of the premium by deduction from his retirement allowance or by another method equally insuring the payment by him.
- (d) ~~(b)~~ Notwithstanding any other statute to the contrary, any member with *the minimum number of months of judicial service required by paragraph (a) or (b) of this subsection* ~~at least forty eight (48) months of judicial service~~ who is also eligible for benefits, or who is receiving benefits from any retirement plan or system administered by the Commonwealth shall be entitled to hospital and medical benefits as described in paragraph (a) of this subsection except that the number of months of service credit used in calculating the level of benefits shall be the sum of service credited to the member in all the state-administered retirement systems or plans.
1. Upon request of the member, the Judicial Retirement System shall compute the member's combined service in all the state-administered retirement systems or plans and calculate the portion of the member's premium to be paid by the Judicial Retirement Plan, according to the criteria established in paragraph (a) of this subsection. *For members who begin participating in the Legislators' Retirement Plan prior to January 1, 2014*, the state-administered retirement systems or plans shall pay to the Judicial Retirement Plan the applicable percentage of the plan's cost of the retiree's hospital and medical premium which shall be equal to the percentage of the member's number of months of service in the applicable state-administered retirement systems or plans divided by his total combined service. The amounts paid by all the state-administered retirement systems or plans shall not be more than one hundred percent (100%) of the premium amount adopted by the respective boards of trustees.
 2. A member who elects hospital and medical benefits under this subsection shall lose any claim to insurance benefits under any of the other state-administered retirement systems or plans.

- (3) The board shall establish a medical insurance premium reimbursement plan for recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance premiums at the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly contribution determined by the board of trustees. The plan shall not be made available if all recipients are eligible for the same level of coverage as recipients living in Kentucky.
- (4) Premiums paid for hospital and medical insurance procured under this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the judicial retirement fund shall not constitute income to the recipient. No commission shall be paid for hospital and medical insurance procured under this section.

➔Section 30. KRS 21.460 is amended to read as follows:

- (1) (a) ***For members who began participating in the Judicial Retirement Plan prior to January 1, 2014:*** If any member of the plan ceases, other than by death or by disability retirement under KRS 21.410, to hold an office qualifying him for membership in the plan established by KRS 21.350 to 21.480, without having met the requirements for vesting, he shall be refunded on demand the amount of his accumulated contributions and any service credit he had in the plan shall be nullified.

(b) ***A member who begins participating in the Judicial Retirement Plan on or after January 1, 2014, may, if the member ceases to hold an office qualifying him or her for membership in the plan established by KRS 21.345 to 21.580, elect to take a refund of his or her accumulated account balance subject to the limitations provided by Section 12 of this Act.***
- (2) The member may elect to leave his contributions in the plan, in which event the service credit he had in the plan shall be considered to be service credit for vesting purposes as provided in KRS 21.375 and for service retirement eligibility as provided in KRS 61.680(7), and, in the event he again becomes a member of the Judicial Retirement Plan, shall be counted toward his total service credit in that plan.
- (3) If a person who has been refunded his ***accumulated contributions or accumulated account balance*** in accordance with subsection (1) of this section subsequently becomes a member of the Legislators' Retirement Plan, the Kentucky Employees Retirement System, County Employees Retirement System, State Police Retirement System, or Teachers' Retirement System, he may while holding such membership repurchase the service credit he previously had in the Judicial Retirement Plan by repaying to that plan the amount that was refunded to him with interest at six percent (6%) per annum, in which event such service credit shall have operative effect to the same limited extent as provided in subsection (2) of this section. ***Service purchased under this subsection on or after January 1, 2014, shall not be used to determine the member's participation date in the Judicial Retirement Plan.***
- (4) If a person who has been refunded his ***accumulated contribution or accumulated account balance*** in accordance with subsection (1) of this section thereafter becomes again the holder of an office qualifying him for membership in the Judicial Retirement Plan, he shall not be entitled to credit for his prior period of service unless he has previously repaid his refunded contributions in accordance with subsection (3) of this section or unless within thirty (30) days after again assuming office he repays to the plan the amount that was refunded to him with interest at six percent (6%) per annum. ***Service purchased under this subsection on or after January 1, 2014, shall not be used to determine the member's participation date in the Judicial Retirement Plan.***
- (5) If the taking of a refund of contributions by a member of the Kentucky Judicial Retirement Plan, when first entitled thereto, would subject the member to a federal excise tax, by reason of the refund's being made before the member has reached an age designated by the federal taxing act, and the member has elected, pursuant to subsection (2) of this section, to defer taking a refund, so much of the contributions as would have been subject to the excise tax shall accrue interest at the rate of six percent (6%) per annum, from the date the member first could have taken a refund until the date the refund is taken or the date as of which the federal excise tax no longer would apply to a refund, whichever is sooner, the interest to be paid by the plan at the time of the refund. ***The provisions of this subsection shall not apply to members who begin participating in the Judicial Retirement Plan on or after January 1, 2014.***

➔Section 31. KRS 21.480 is amended to read as follows:

- (1) *For members who begin participating in the Judicial Retirement Plan prior to January 1, 2014*, it is hereby declared that in consideration of the contributions by the members, and in further consideration of benefits received by the state through the inducement of qualified and experienced judges and commissioners to continue in service, KRS 21.350 to 21.510, except as provided in KRS 6.696, shall constitute an inviolable contract of the Commonwealth, and the rights and benefits provided therein shall, except as provided in KRS 6.696, not be subject to reduction or impairment by alteration, amendment or repeal.
- (2) (a) *For members who begin participating in the Judicial Retirement Plan on or after January 1, 2014, the General Assembly reserves the right to amend, suspend, or reduce the benefits and rights provided under KRS 21.345 to 21.580 if, in its judgment, the welfare of the Commonwealth so demands, except that the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall not be affected.*
- (b) *For purposes of this subsection, the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall be limited to the accumulated account balance the member has accrued at the time of amendment, suspension, or reduction.*
- (c) *The provisions of this subsection shall not be construed to limit the General Assembly's authority to change any other benefit or right specified by KRS 21.345 to 21.580, for members who begin participating in the Judicial Retirement Plan on or after January 1, 2014, except the benefits specified by paragraph (b) of this subsection.*
- (3) *The provisions of this section shall not be construed to limit the General Assembly's authority to amend, reduce, or suspend the benefits and rights of members of the Judicial Retirement Plan as provided by KRS 21.345 to 21.580 that the General Assembly had the authority to amend, reduce, or suspend, prior to the effective date of this Act.*

➔Section 32. KRS 21.525 is amended to read as follows:

- (1) The state, by appropriation to the Judicial Retirement Board, shall contribute annually to the Judicial Retirement System an amount equal to the percent as computed under subsection (2) of this section of the creditable compensation of active members of the Judicial Retirement System, to be known as the "normal contributions," and an additional amount equal to one percent (1%) of the unfunded past service liabilities, plus annual interest accruing thereon at the actuarially assumed rate of interest adopted by the board to be known as the "past service contribution."
- (2) The normal contribution rate shall be determined either by the entry age normal cost funding method or the unit credit actuarial method, as selected by the board. The past service liability shall be determined by actuarial methods consistent with the methods prescribed for determining the normal contribution rate. The board shall adopt the actuarial assumptions that are to be used in making the determinations.
- (3) Normal contributions and the past service liability contribution for each fiscal biennium shall be determined on the basis of the actuarial valuation last preceding the commencement of the biennium.
- (4) *Employer costs for the hybrid cash balance plan as provided by Section 12 of this Act shall be incorporated into the employer contribution rate of the Legislators' Retirement Plan and the Judicial Retirement Plan as a new benefit tier within the plans.*

➔Section 33. KRS 16.165 is amended to read as follows:

Any Department of Kentucky State Police officer, as defined in KRS 16.010, who becomes disabled after July 1, 1977, as a direct result of an injury or disease arising out of the performance of a hazardous duty in the course of employment with the department may elect to be retained on the regular payroll of the department subject to the following:

- (1) Compensation paid to the officer by the department shall be adjusted and maintained at the officer's regular rate of pay based upon the officer's rank and tenure with the department and shall include annual increments, salary adjustments, and other benefits of employment; provided, however, such compensation paid to the officer by the department shall be reduced by the amount of payments received by the officer from workers' compensation insurance, Social Security benefits, and other federal or state-financed disability programs designed to supplement the officer's income for which the officer is qualified and elects participation. Final compensation shall not be reduced by payments for medical care. The disabled officer's regular rate of pay, without the reductions required by this subsection, shall be his creditable compensation for purposes of KRS 16.510 to 16.652.

- (2) Such officer shall be assigned by the commissioner of the Department of Kentucky State Police to a position in the department for which the officer is qualified, if the commissioner determines, based upon medical reports and recommendations submitted for that purpose, that the officer is able to perform limited duties. If it is determined that the officer is able to perform limited duties and refuses to accept an assignment from the commissioner, the officer shall not be eligible for the payment of compensation authorized by this section. If the commissioner determines that the officer is unable to perform limited duties, the officer shall be eligible for the payment of compensation authorized by this section without the performance of limited duties. Any officer adversely affected or aggrieved by a final determination of the commissioner pursuant to this section may appeal within thirty (30) days to the local Circuit Court.
- (3) (a) ***For an officer whose participation date in the State Police Retirement System is prior to January 1, 2014, payments made pursuant to this section shall continue until the officer is eligible for normal retirement allowances pursuant to KRS 16.576 or until the officer elects early retirement allowances pursuant to KRS 16.577 or disability retirement allowances pursuant to KRS 16.582.***
- (b) ***For an officer whose participation date in the State Police Retirement System is on or after January 1, 2014, payments made pursuant to this section shall continue until the officer is eligible to retire under subsection (6)(a) of Section 8 of this Act or until the officer elects to retire under subsection (6)(b) of Section 8 of this Act or to receive disability retirement allowances pursuant to KRS 16.582.***
- (c) If the officer receives preretirement payments under this section or KRS 16.167 and subsequently elects disability retirement, the effective date of his disability retirement shall be the first month following the month in which the officer last receives preretirement payments under this section or KRS 16.167, KRS 16.505(16) to the contrary notwithstanding.
- (4) Any Department of Kentucky State Police officer, disabled prior to July 1, 1977, as a result of severe physical injuries arising out of the performance of duty, who is unable to maintain gainful employment as a result of such injuries, but who was ineligible for retention on the regular payroll because of the date of his injury, shall, if his or her time in active service plus his or her time on disability retirement allowance equal the time necessary for normal retirement pursuant to KRS 16.505(15), have his or her retirement allowance increased to the amount he or she would receive, had he or she been retained on the regular payroll of the department pursuant to this section and had he or she subsequently elected normal retirement pursuant to KRS 16.576 when first eligible, but any survivor option which he or she chose at the time of disability retirement shall not be changed.

➔Section 34. KRS 16.505 is amended to read as follows:

As used in KRS 16.505 to 16.652, unless the context otherwise requires:

- (1) "System" means the State Police Retirement System created by KRS 16.505 to 16.652;
- (2) "Board" means the board of trustees of the Kentucky Retirement Systems;
- (3) "Employer" or "State Police" means the Department of Kentucky State Police, or its successor;
- (4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided;
- (5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;
- (6) "Service" means the total of current service and prior service;
- (7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's ~~contribution~~ account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.505 to 16.652, and any other amounts the member shall have contributed, including interest credited. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);
- (8) "Creditable compensation" means all salary and wages, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid

leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000). Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4). For employees who begin participating on or after September 1, 2008, creditable compensation shall not include payments for compensatory time;

- (9) "Final compensation" means:
- (a) For a member who begins participating before September 1, 2008, the creditable compensation of a member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during the three (3) year period, multiplied by twelve (12); the three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used; or
 - (b) For a member who begins participating on or after September 1, 2008, **but prior to January 1, 2014**, the creditable compensation of the member during the three (3) complete fiscal years he or she was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit;
- (10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;
- (11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;
- (12) "Retirement allowance" means the retirement payments to which a retired member is entitled;
- (13) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of actuarial tables adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. **For members who began participating in the system prior to January 1, 2014**, no disability retirement option shall be less than the same option computed under early retirement;
- (14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of Kentucky State Police;
- (15) "Normal retirement date" means:
- (a) For a member who begins participating before September 1, 2008, the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959; or
 - (b) For a member who begins participating on or after September 1, 2008, the first day of the month following a member's sixtieth birthday;
- (16) "Disability retirement date" means the first day of the month following the last day of paid employment;

- (17) "Dependent child" means a child in the womb and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22);
- (18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.505 to 16.652;
- (19) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of the duties specified in KRS 16.060. For employees in hazardous positions under KRS 61.592, an "act in line of duty" shall mean an act occurring which was required in the performance of the principal duties of the position as defined by the job description;
- (20) "Early retirement date" means:
- (a) For a member who begins participating before September 1, 2008, the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service; or
 - (b) For a member who begins participating on or after September 1, 2008, *but prior to January 1, 2014*, the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system;
- (21) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;
- (22) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;
- (23) "Hazardous disability" as used in KRS 16.505 to 16.652 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;
- (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;
- (26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;
- (27) "Person" means a natural person;
- (28) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (29) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's ~~contribution~~ account and considered as accumulated contributions of the individual member;
- (30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;
- (31) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

- (32) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefit limits established by 26 U.S.C. sec. 415;
- (33) "Participating" means an employee is currently earning service credit in the system as provided in KRS 16.543;
- (34) "Month" means a calendar month;
- (35) "Membership date" means the date upon which the member began participating in the system as provided by KRS 16.543;
- (36) "Participant" means a member, as defined by subsection (21) of this section, or a retired member, as defined by subsection (11) of this section;
- (37) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
- (a) Is issued by a court or administrative agency; and
 - (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee; ~~and~~
- (38) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;
- (39) ***"Accumulated employer credit" means the employer pay credit deposited to the member's account and interest credited on such amounts as provided by Section 8 of this Act; and***
- (40) ***"Accumulated account balance" means:***
- (a) ***For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions; or***
 - (b) ***For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by Section 8 of this Act, the combined sum of the member's accumulated contributions and the member's accumulated employer pay credit.***

➔Section 35. KRS 16.555 is amended to read as follows:

All the assets of the system shall be held and invested in the State Police Retirement Fund and credited, according to the purpose for which they are held, to one (1) of three (3) accounts: the "***members'*** ~~member contribution~~ account," the "retirement allowance account," and accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b).

➔Section 36. KRS 16.560 is amended to read as follows:

- (1) The member ~~contribution~~ account shall be the account to which:
- (a) All members' contributions, or contributions picked up by the employer after August 1, 1982, and interest allowances as provided in KRS 16.505 to 16.652 shall be credited, except as provided by KRS 61.702(2)(b); ***and***
 - (b) ***For members who begin participating in the system on or after January 1, 2014, the employer pay credit and interest credited on such amounts as provided by Section 8 of this Act shall be credited.***

Only funds from this account shall be used to return accumulated contributions ***or accumulated account balances*** of a member when required by reason of any provision of KRS 16.505 to 16.652. Prior to the member's retirement, death, or refund in accordance with KRS 61.625, no funds shall be made available from the member's ~~contribution~~ account.

- (2) Each member's contribution or contribution picked up by the employer shall be credited to the individual account of the contributing member, except as provided by KRS 61.702(2)(b).
- (3) (a) Each member ~~on June 30 of each year~~ shall have his individual account credited with interest ***on June 30 of each fiscal year.***
- (b) For members who begin participating before September 1, 2008, interest shall be credited to their individual account at a rate determined by the board but not less than two and one-half percent (2.5%)

per annum on the accumulated *account balance*~~[contributions]~~ of the member on June 30 of the preceding fiscal year.

- (c) For members who begin participating on or after September 1, 2008, ***but prior to January 1, 2014***, interest shall be credited to their individual account at a rate of two and one-half percent (2.5%) per annum on the accumulated *account balance*~~[contributions]~~ of the member on June 30 of the preceding fiscal year.

- (d) ***For members who begin participating on or after January 1, 2014, in the hybrid cash balance plan, interest shall be credited to their individual account in accordance with Section 8 of this Act.***

- (e)~~(d)~~ The amounts of interest credited to a member's account under this subsection ***and Section 8 of this Act and the employer pay credit as provided by Section 8 of this Act*** shall be transferred from the retirement allowance account.

- (4) (a) Upon the retirement of a member ***who began participating in the system prior to January 1, 2014***, his or her accumulated *account balance*~~[contribution]~~ shall be transferred from the member's~~[contribution]~~ account to the retirement allowance account.

- (b) ***Upon the retirement of a member who began participating in the system on or after January 1, 2014, who elects to annuitize his or her accumulated account balance as prescribed by subsection (7)(a) or (b) of Section 8 of this Act, the member's accumulated account balance shall be transferred to the retirement allowance account.***

- (5) Included as a part of such member's~~[contribution]~~ account shall be his accumulated *account balance*~~[contributions]~~ in the Kentucky Employees Retirement System, if any, transferred to this system.

➔Section 37. KRS 16.565 is amended to read as follows:

The retirement allowance account shall be the account in which shall be accumulated all employer contributions, amounts transferred from the member~~[contribution]~~ account, and to which all income from the investment assets of the system shall be credited. From this account there shall be paid administrative expenses and in addition all benefits payable under KRS 16.510 to 16.652. There shall be transferred from this account to the member~~[contribution]~~ account:

- (1) ***The employer pay credit added monthly to each member's individual accounts as provided by Section 8 of this Act; and***
- (2) The interest credited annually to each member's individual accounts ***as provided by KRS 16.505 to 16.652.***

➔Section 38. KRS 16.576 is amended to read as follows:

- (1) (a) Any member who begins participating before September 1, 2008, who has at least five (5) years of service credit may retire at his normal retirement date, or subsequent thereto, upon written notification to the system, setting forth at what date the retirement is to become effective, if the effective date shall be after his last day of service and subsequent to the filing of the notice at the retirement office.
- (b) Any member who begins participating on or after September 1, 2008, who has at least five (5) years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system may retire at his or her normal retirement date, or subsequent thereto, upon written notification to the system, setting forth what date the retirement is to become effective, if the effective date shall be after his or her last day of service and subsequent to the filing of the notice at the retirement office.
- (2) The member shall have the right to elect to have his retirement allowance payable under subsection (3), (4), or (6) of this section or any one (1) of the plans set forth in KRS 61.635.
- (3) (a) Effective August 1, 1990, a member of the Kentucky State Police Retirement System may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and five-tenths percent (2.5%) of final compensation for each year of service credit. Effective August 1, 1988, a member of the County Employees Retirement System covered by this section may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and five-tenths percent (2.5%) of final compensation for each year of service credit. Effective August 1, 1988, a member of the Kentucky Employees Retirement System covered by this section may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and forty-nine hundredths percent (2.49%) of final compensation for each year of service credit. The annual retirement allowance

for a member covered by this section shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

- (b) A member of the State Police Retirement System, a member of the Kentucky Employees Retirement System covered by this section, or a member of the County Employees Retirement System covered by this section, whose participation begins on or after September 1, 2008, **but prior to January 1, 2014**, shall receive an annual retirement allowance, payable monthly during his or her lifetime, equal to:
1. One and three-tenths percent (1.3%) of final compensation for each year of service credit if the employee has earned ten (10) or less years of service at retirement;
 2. One and one-half percent (1.5%) of final compensation for each year of service credit if the employee has earned greater than ten (10) but no more than twenty (20) years of service at retirement;
 3. Two and one-quarter percent (2.25%) of final compensation for each year of service credit if the employee has earned greater than twenty (20) but less than twenty-five (25) years of service at retirement; or
 4. Two and one-half percent (2.5%) of final compensation for each year of service credit if the employee has earned twenty-five (25) or more years of service at retirement.
- (4) The member may elect to receive a monthly retirement allowance payable for ten (10) years certain, actuarially equivalent to the retirement allowance payable under subsection (3) of this section. If the member should become deceased prior to the expiration of ten (10) years, his beneficiary, unless the beneficiary is the member's estate, shall receive the remaining payments monthly for the duration of the ten (10) years. If the member's estate is the beneficiary, the member's estate shall receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments. The provisions of KRS 61.702 notwithstanding, the member who retired on June 17, 1978, or thereafter, and his spouse and eligible dependents shall continue to receive the insurance benefits to which they are entitled pursuant to KRS 61.702 after the expiration of ten (10) years. Effective with any insurance contract procured, or self-insurance plan instituted, after July 15, 1990, a member who retired prior to June 17, 1978, and his spouse and eligible dependents shall receive insurance benefits pursuant to KRS 61.702 upon payment by the member or beneficiary of the entire cost of the required insurance premium.
- (5) Notwithstanding any other provisions of this section, upon written notification to the system, a member shall have the option to defer his election to receive his retirement allowance. The retirement allowance payable under a deferred option shall be increased to reflect the deferred receipt of benefits.
- (6) In lieu of any other benefits due under KRS 16.505 to 16.652, a member who begins participating before September 1, 2008, who has attained age fifty-five (55) and who has attained at least one (1) month of service credit but no more than fifty-nine (59) months of service credit may elect to receive an annual retirement allowance, payable monthly or less frequently as determined by the board, which shall be determined by multiplying his accumulated contributions by two (2) and converting this amount to an annual retirement allowance based on an annuity rate adopted by the board which would pay the actuarial equivalent of twice his accumulated contributions over the lifetime of the retired member.
- (7) ***Subsections (1) to (6) of this section shall not apply to members who begin participating in the system on or after January 1, 2014. Members who begin participating in the system on or after January 1, 2014, shall receive the retirement benefit calculation prescribed by Section 8 of this Act.***
- ➔Section 39. KRS 16.577 is amended to read as follows:
- (1) Upon retirement at early retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date, with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced at an amount determined by the board's actuary to reflect the earlier commencement of benefits.
 - (2) For a member who begins participating before September 1, 2008, there shall be no reduction in the retirement allowance if the member has twenty (20) or more years of service credit, at least fifteen (15) of which are current service.

- (3) For a member who begins participating on or after September 1, 2008, **but prior to January 1, 2014**, there shall be no reduction in the retirement allowance if the member has twenty-five (25) or more years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system.
- (4) **Subsections (1) to (3) of this section shall not apply to members who begin participating in the system on or after January 1, 2014. Members who begin participating in the system on or after January 1, 2014, shall receive the retirement benefit calculation prescribed by Section 8 of this Act.**

➔Section 40. KRS 16.578 is amended to read as follows:

- (1) If a member dies prior to the first day of the month in which the member would have received his or her first retirement allowance, the member's beneficiary shall be eligible for the benefits provided by this section if the member had on file a written designation of a beneficiary with the retirement office as provided by KRS 61.542 and the member met the following conditions at the date of his or her death:
- The member was eligible to retire under KRS 16.576,~~or~~ 16.577, **or subsection (6) of Section 8 of this Act**;
 - The member was in active employment or on authorized leave of absence with five (5) or more years of service credit and died prior to his or her normal retirement date; or
 - The member was not in active employment or on authorized leave of absence with twelve (12) or more years of service credit and died prior to his or her normal retirement date.
- (2) If the beneficiary eligible for benefits as provided in subsection (1) of this section is a single person, then the beneficiary may elect to receive:
- A monthly benefit payable for the life of the beneficiary that is equal to the benefit that would have been paid had the member retired immediately prior to his or her date of death and elected to receive benefits payable under the survivorship one hundred percent (100%) option as provided in KRS 61.635(2);
 - A monthly benefit payable for the life of the beneficiary under the beneficiary Social Security adjustment option as provided in KRS 61.635(9) that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection;
 - A monthly benefit payable for a period of sixty (60) months that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection;
 - A monthly benefit payable for a period of one hundred twenty (120) months that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection;
 - If the member began participating in the system prior to January 1, 2014**, a monthly benefit payable for a period of one hundred twenty (120) months that is equivalent to the benefit the member would have been entitled to receive based on his or her years of service and final compensation at the date of his or her death reduced by the survivorship fifty percent (50%) factor as provided for in KRS 61.635(4), then reduced by fifty percent (50%), and that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection; or
 - The higher of a refund of **the member's** accumulated **account balance**~~contributions~~ and interest as described in KRS 61.625(1) or a one (1) time lump-sum payment which shall be the actuarial equivalent of the amount payable under paragraph (a) of this subsection for a period of sixty (60) months.
- (3) If the beneficiary eligible for benefits as provided in subsection (1) of this section are multiple beneficiaries or a trust, then the multiple beneficiaries by consensus or the trustee may elect to receive the actuarial equivalent amounts payable under subsection (2)(c), (d), (e), or (f) of this section using the assumption that the beneficiary's age is the same as the member's age.
- (4) If the beneficiary eligible for benefits as provided in subsection (1) of this section is the member's estate, then the beneficiary shall receive the higher of a refund of **the member's** accumulated **account balance**~~contributions~~ and interest as described in KRS 61.625(1) or the one (1) time lump-sum payment payable under subsection (2)(f) of this section, using the assumption that the beneficiary's age is the same as the member's age.
- (5) Payments of taxable distributions made pursuant to this section shall be subject to state and federal tax as appropriate.

➔Section 41. KRS 16.582 is amended to read as follows:

- (1)
 - (a) Total and permanent disability means a disability which results in the member's incapacity to engage in any occupation for remuneration or profit. Loss by severance of both hands at or above the wrists, or both feet at or above the ankles, or one (1) hand above the wrist and one (1) foot above the ankle, or the complete, irrevocable loss of the sight of both eyes shall be considered as total and permanent.
 - (b) Hazardous disability means a disability which results in the member's total incapacity to continue as a regular full-time officer or as an employee in a hazardous position, as defined in KRS 61.592, but which does not result in the member's total and permanent incapacity to engage in other occupations for remuneration or profit.
 - (c) In determining whether the disability meets the requirement of this section, any reasonable accommodation provided by the employer as provided in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 shall be considered.
 - (d) If the board determines that the total and permanent disability of a member receiving a retirement allowance under this section has ceased, then the board shall determine if the member has a hazardous disability.
- (2) Any person may qualify to retire on disability, subject to the following:
 - (a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1). The service requirement shall be waived if the disability is a total and permanent disability or a hazardous disability and is a direct result of an act in line of duty;
 - (b) For a person whose membership date is prior to August 1, 2004, the person shall not be eligible for an unreduced retirement allowance;
 - (c) The person's application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment, as defined in KRS 16.505, as a regular full-time officer or in a regular full-time hazardous position under KRS 61.592;
 - (d) The person shall receive a satisfactory determination pursuant to KRS 61.665; and
 - (e) A person's disability application based on the same claim of incapacity shall be accepted and reconsidered for disability if accompanied by new objective medical evidence. The application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment as a regular full-time officer or in a regular full-time hazardous position.
- (3) Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:
 - (a) The incapacity results from bodily injury, mental illness, or disease. For purposes of this section, "injury" means any physical harm or damage to the human organism other than disease or mental illness;
 - (b) The incapacity is deemed to be permanent; and
 - (c) The incapacity does not result directly or indirectly from:
 1. Injury intentionally self-inflicted while sane or insane;
 2. Injury or disease resulting from military service; or
 3. Bodily injury, mental illness, disease, or condition which pre-existed membership in the system or reemployment, whichever is most recent, unless:
 - a. The disability results from bodily injury, mental illness, disease, or a condition which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or
 - b. The person has at least sixteen (16) years' current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems.

For purposes of this subparagraph, "reemployment" shall not mean a change of employment between employers participating in the retirement systems administered by the Kentucky Retirement Systems with no loss of service credit.

- (4) (a)
 1. An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a position as regular full-time officer or a hazardous position.
 2. The determination of a permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.
- (b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental, and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle, and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember, and carry out instructions and respond appropriately to supervision, coworkers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.
- (c) The person's physical exertion requirements shall be determined based on the following standards:
 1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers, and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.
 2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.
 3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.
 4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.
 5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.
- (5) (a) The disability retirement allowance shall be determined as provided in KRS 16.576, except if the member's total service credit on his last day of paid employment in a regular full-time position is less than twenty (20) years, service shall be added beginning with his last date of paid employment and continuing to his fifty-fifth birthday. The maximum service credit added shall not exceed the total service the member had on his last day of paid employment, and the maximum service credit for calculating his retirement allowance, including his total service and service added under this section, shall not exceed twenty (20) years.
- (b) For a member whose participation begins on or after August 1, 2004, **but prior to January 1, 2014**, the disability retirement allowance shall be the higher of twenty-five percent (25%) of the member's monthly final rate of pay or the retirement allowance determined in the same manner as for retirement

at his normal retirement date with years of service and final compensation being determined as of the date of his disability.

- (c) *For a member who begins participating on or after January 1, 2014, in the hybrid cash balance plan as provided by Section 8 of this Act, the disability retirement allowance shall be the higher of twenty-five percent (25%) of the member's monthly final rate of pay or the retirement allowance determined in the same manner as for retirement at his or her normal retirement date under Section 8 of this Act.*
- (6) If the member receives a satisfactory determination of total and permanent disability or hazardous disability pursuant to KRS 61.665 and the disability is the direct result of an act in line of duty, the member's retirement allowance shall be calculated as follows:
- (a) For the disabled member, benefits as provided in subsection (5) of this section except that the monthly retirement allowance payable shall not be less than twenty-five percent (25%) of the member's monthly final rate of pay; and
- (b) For each dependent child of the member on his disability retirement date, who is alive at the time any particular payment is due, a monthly payment equal to ten percent (10%) of the disabled member's monthly final rate of pay; however, total maximum dependent children's benefit shall not exceed forty percent (40%) of the member's monthly final rate of pay. The payments shall be payable to each dependent child, or to a legally appointed guardian or as directed by the system.
- (7) No benefit provided in this section shall be reduced as a result of any change in the extent of disability of any retired member who is age fifty-five (55) or older.
- (8) If a regular full-time officer or hazardous position member has been approved for benefits under a hazardous disability, the board shall, upon request of the member, permit the member to receive the hazardous disability allowance while accruing benefits in a nonhazardous position, subject to proper medical review of the nonhazardous position's job description by the system's medical examiner.
- (9) For a member of the State Police Retirement System, in lieu of the allowance provided in subsection (5) or (6) of this section, the member may be retained on the regular payroll and receive the compensation authorized by KRS 16.165, if he is qualified.

➔Section 42. KRS 16.601 is amended to read as follows:

- (1) If the death of a member in service occurs on or after August 1, 1992, as a direct result of an "act in line of duty" and the member has on file in the retirement office at the time of his death a written designation of only one (1) beneficiary, who is his spouse, the beneficiary may elect to receive a lump-sum payment of ten thousand dollars (\$10,000) and a monthly payment equal to twenty-five percent (25%) of the member's monthly final rate of pay beginning in the month following the member's death and continuing each month until death.
- (2) If the death of a member in service occurs on or after July 1, 1968, as a direct result of an "act in line of duty" and the member has on file in the retirement office at the time of his death a written designation of only one (1) beneficiary other than his spouse, who is a dependent receiving at least one-half (1/2) of his support from the deceased member, the beneficiary may elect to receive a lump-sum payment of ten thousand dollars (\$10,000).
- (3) In the period of time following a member's death during which dependent children survive, monthly payments shall be made for each dependent child who is alive, equal to ten percent (10%) of the deceased member's monthly final rate of pay; however, total maximum dependent children's benefits shall not be greater than forty percent (40%) of the deceased member's monthly final rate of pay at the time any particular payment is due. The payments shall commence in the month following the date of death of the member and shall be payable to the beneficiaries, or to a legally appointed guardian or as directed by the system. Benefits shall be payable under this subsection notwithstanding an election by a beneficiary to withdraw the deceased member's accumulated **account balance**~~{contributions}~~ as provided in KRS 61.625 or benefits under any other provisions of KRS 16.510 to 16.652.
- (4) A beneficiary eligible for benefits under subsection (1) or (2) of this section who is also eligible for benefits under any other provisions of KRS 16.510 to 16.652 may elect benefits under this section or any other section of KRS 16.510 to 16.652 but cannot elect to receive both.

➔Section 43. KRS 16.645 is amended to read as follows:

The following subjects shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

- (1) Cessation of membership, as provided for by KRS 61.535;
- (2) Medical examiners and hearing procedures, as provided for by KRS 61.665;
- (3) Actuarial bases, as provided for by KRS 61.670;
- (4) Duties of the employer, as provided for by KRS 61.675;
- (5) Exemption of benefits of the system for taxation and qualified domestic relations orders, as provided for by KRS 61.690;
- (6) Retirement allowance increase, as provided for by KRS 61.691;
- (7) Calculation of retirement allowance, as provided for by *Section 11 of this Act* ~~[KRS 61.595(3) and (4)]~~;
- (8) Beneficiaries to be designated by member, change, rights, as provided for by KRS 61.542;
- (9) Year of service credit, as provided for by KRS 61.545;
- (10) Refund of contributions, death after retirement, as provided by KRS 61.630;
- (11) Custodian of fund, payments made, when, as provided for by KRS 61.660;
- (12) Credit for service prior to membership date, as provided for by KRS 61.526;
- (13) Member's account, confidential, as provided for by KRS 61.661;
- (14) Cessation of membership, loss of benefits, as provided for by KRS 61.550;
- (15) Correction of errors in records, as provided for by KRS 61.685;
- (16) Maximum disability benefit, as provided for by KRS 61.607;
- (17) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;
- (18) Employer contributions, as provided for by KRS 61.565;
- (19) Reinstatement of lost service credit, purchase of service credit, interest paid, and delayed contribution and installment payments, as provided for by KRS 61.552;
- (20) Reciprocal arrangement between systems, as provided by KRS 61.680;
- (21) Refund of contributions, conditions, as provided by KRS 61.625;
- (22) Hospital and medical insurance plan, as provided by KRS 61.702;
- (23) Death benefit, as provided by KRS 61.705;
- (24) Disability retirement allowance, reduction, and discontinuance, as provided by KRS 61.615;
- (25) Service credit, Armed Forces, as provided by KRS 61.555;
- (26) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;
- (27) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;
- (28) Retirement of persons in hazardous positions, as provided for by KRS 61.592;
- (29) Direct deposit of recipient's retirement allowance as provided in KRS 61.623;
- (30) Purchase of service credit effective July 1, 2001, as provided in KRS 61.5525;
- (31) Payment of small amounts upon death of member, retiree, or recipient without formal administration of the estate as provided in KRS 61.703;
- (32) Suspension of retirement payments on reemployment, reinstatement, recomputation of allowance, waiver of provisions in certain instances, reemployment in a different position, as provided for by KRS 61.637; ~~and~~
- (33) Medical examination and financial review after disability retirement, staff review, as provided in KRS 61.610;
and

- (34) *Employer payment of increases in creditable compensation during the last five (5) years of employment as provided by Section 10 of this Act.*

➔Section 44. KRS 16.652 is amended to read as follows:

- (1) *For members who begin participating in the State Police Retirement System prior to January 1, 2014, it is hereby declared that in consideration of the contributions by the member, and in further consideration of benefits received by the state from the member's employment, KRS 16.510 to 16.645, except as provided in KRS 6.696 effective September 16, 1993, shall constitute an inviolable contract of the Commonwealth, and the benefits provided therein shall, except as provided in KRS 6.696, not be subject to reduction or impairment by alteration, amendment or repeal.*
- (2) (a) *For members who begin participating in the State Police Retirement System on or after January 1, 2014, the General Assembly reserves the right to amend, suspend, or reduce the benefits and rights provided under KRS 16.505 to 16.652 if, in its judgment, the welfare of the Commonwealth so demands, except that the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall not be affected.*
- (b) *For purposes of this subsection, the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall be limited to the accumulated account balance the member has accrued at the time of amendment, suspension, or reduction.*
- (c) *The provisions of this subsection shall not be construed to limit the General Assembly's authority to change any other benefit or right specified by KRS 16.505 to 16.652, for members who begin participating in the State Police Retirement System on or after January 1, 2014, except the benefits specified by paragraph (b) of this subsection.*
- (3) *The provisions of this section shall not be construed to limit the General Assembly's authority to amend, reduce, or suspend the benefits and rights of members of the State Police Retirement System as provided by KRS 16.505 to 16.652 that the General Assembly had the authority to amend, reduce, or suspend, prior to the effective date of this Act.*

➔Section 45. KRS 61.510 is amended to read as follows:

As used in KRS 61.510 to 61.705, unless the context otherwise requires:

- (1) "System" means the Kentucky Employees Retirement System created by KRS 61.510 to 61.705;
- (2) "Board" means the board of trustees of the system as provided in KRS 61.645;
- (3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;
- (4) "Examiner" means the medical examiners as provided in KRS 61.665;
- (5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, interim, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.510 to 61.705;
- (6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;
- (7) "State" means the Commonwealth of Kentucky;
- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
- (9) "Service" means the total of current service and prior service as defined in this section;
- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise

provided, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he serves in the position;

- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he served in the position prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;
- (12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' ~~contribution~~ account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);
- (13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). For members of the General Assembly, it shall mean all amounts which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 6.505(4) or 61.560(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000). In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4). For employees who begin participating on or after September 1, 2008, creditable compensation shall not include payments for compensatory time;
- (14) "Final compensation" of a member means:
 - (a) For a member who begins participating before September 1, 2008, who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;
 - (b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance;

- (c) For a member who begins participating before September 1, 2008, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;
 - (d) For a member who begins participating on or after September 1, 2008, **but prior to January 1, 2014**, who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) complete fiscal years immediately preceding retirement divided by five (5). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years shall be used; or
 - (e) For a member who begins participating on or after September 1, 2008, **but prior to January 1, 2014**, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) complete fiscal years he was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit;
- (15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;
- (16) "Retirement allowance" means the retirement payments to which a member is entitled;
- (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. **For members who began participating in the system prior to January 1, 2014**, no disability retirement option shall be less than the same option computed under early retirement;
- (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.510 to 61.705;
- (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefit limits as established by 26 U.S.C. sec. 415;
- (20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150. The term shall also apply to assistants who were employed by the General Assembly for at least one (1) regular legislative session prior to July 13, 2004, who elect to participate in the retirement system, and who serve for at least six (6) regular legislative sessions. Assistants hired after July 13, 2004, shall be designated as interim employees;
- (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:
- (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;
 - (b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;
 - (c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months;

- (d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and
 - (e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;
- (22) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's ~~contribution~~ account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;
 - (23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system;
 - (24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;
 - (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
 - (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;
 - (27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;
 - (28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded actuarial accrued liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded actuarially accrued liability shall be projected to be fully amortized at the conclusion of the set period;
 - (29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;
 - (30) "Person" means a natural person;
 - (31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
 - (32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;
 - (33) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;
 - (34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543;
 - (35) "Month" means a calendar month;
 - (36) "Membership date" means:

- (a) The date upon which the member began participating in the system as provided in KRS 61.543; or
 - (b) For a member electing to participate in the system pursuant to KRS 196.167(4) who has not previously participated in the system or the Kentucky Teachers' Retirement System, the date the member began participating in a defined contribution plan that meets the requirements of 26 U.S.C. sec. 403(b);
- (37) "Participant" means a member, as defined by subsection (8) of this section, or a retired member, as defined by subsection (24) of this section;
- (38) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
- (a) Is issued by a court or administrative agency; and
 - (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;~~{and}~~
- (39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;
- (40) *"Accumulated employer credit" mean the employer pay credit deposited to the member's account and interest credited on such amounts as provided by Sections 8 and 9 of this Act; and*
- (41) *"Accumulated account balance" means:*
- (a) *For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions; or*
 - (b) *For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by Sections 8 and 9 of this Act, the combined sum of the member's accumulated contributions and the member's accumulated employer credit.*

➔Section 46. KRS 61.535 is amended to read as follows:

- (1) The membership of any person in the system shall cease:
 - (a) Upon withdrawal of his accumulated **account balance**~~{contributions}~~ at or any time after termination of employment, regardless of length of service;
 - (b) Upon disability retirement;
 - (c) Upon service retirement;
 - (d) Upon death;
 - (e) For persons hired prior to August 1, 2000, upon termination of employment with prejudice; or
 - (f) For persons hired on or after August 1, 2000, upon conviction of a felony relating to the person's employment as provided in subsection (3) of this section.
- (2) For purposes of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, termination of employment with prejudice shall mean termination as the result of conviction of the member in a court of competent jurisdiction of embezzlement or larceny of public funds or property or malfeasance in office, or the forcing of a member to make restitution for any funds or property criminally taken by said member at the time of termination of employment.
- (3) Notwithstanding any provision of law to the contrary, an employee hired on or after August 1, 2000, who participates in one (1) of the retirement systems administered by the Kentucky Retirement Systems and who is convicted, in any state or federal court of competent jurisdiction, of a felony related to his employment shall forfeit rights and benefits earned under the retirement system, except for the return of his accumulated contributions and interest credited on those contributions. The payment of retirement benefits ordered forfeited shall be stayed pending any appeal of the conviction. If the conviction is reversed on final judgment, no retirement benefit shall be forfeited. The employer shall notify the retirement system when an employee is convicted under the provisions of this subsection.

➔Section 47. KRS 61.543 is amended to read as follows:

- (1) Employee contributions shall be deducted each payroll period from the creditable compensation of each employee of an agency participating in the retirement system while he is classified as regular full-time as defined in KRS 61.510 unless the employee did not elect to become a member as provided by subsection (2) of

KRS 61.525, or unless the employee did not elect membership pursuant to KRS 61.545(3). After August 1, 1982, employee contributions shall be picked up by the employer pursuant to KRS 61.560(4). Service credit will be allowed for each month the contributions are deducted or picked up during a fiscal or calendar year, if the member receives creditable compensation for an average of one hundred (100) hours or more of work per month. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

- (2) Employee contributions shall not be deducted from the creditable compensation of an employee or picked up by the employer while he is seasonal, emergency, temporary, or part-time. No service credit will be earned.
- (3) Contributions shall not be made or picked up by the employer and no service credit will be earned by a member while on leave except:
 - (a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555;
 - (b) A member on educational leave, approved by the Personnel Cabinet, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay employee contributions, or the contributions shall be picked up in accordance with KRS 61.560 and his employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded; and
 - (c) An employee on educational leave, approved by the appointing authority, not to exceed one (1) year, or with additional approval of one (1) additional year, and not to exceed two (2) years within a five (5) year period, who is receiving a salary of less than seventy-five percent (75%) of full salary, may elect to retain membership in the system during the period of leave. If the employee elects to retain membership in the system, he shall receive service credit by having employee contributions picked up in accordance with KRS 61.560. His employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the employee and employer contributions paid or picked up during the period of educational leave shall be refunded to the contributor and no service credit shall be earned for the period of leave.
- (4) The retirement office, upon detection, shall refund any erroneous employer and employee contributions made to the retirement system and any interest credited in accordance with KRS 61.575.
- (5) Notwithstanding the provisions of this section and KRS 61.560, employees engaged pursuant to KRS 148.026 and 56.491 in a regular full-time position as defined in KRS 61.510(21) prior to January 1, 1993, shall be allowed service credit for each month the employee received creditable compensation for an average of one hundred (100) or more hours of work, if the employee pays to the retirement system the contributions that would have been deducted for the period of employment. The contributions shall be credited to the member's ~~contribution~~ account and shall not be picked up pursuant to KRS 61.560(4). The employer contributions for the period, plus interest calculated at the actuarial rate, shall be due within thirty (30) days of notice of receipt of payment from the employee.

➔ Section 48. KRS 61.545 is amended to read as follows:

- (1) The board shall determine by appropriate administrative regulations how much service in any year is the equivalent of a year of service credit and how much service in any calendar month is the equivalent of a month of service credit. It shall not allow credit for more than one (1) year of service for all service rendered in any period of twelve (12) consecutive months except as provided in KRS 61.546 and in subsection (2) of this section.
- (2) (a) Employees participating in one (1) of the state-administered retirement systems who are or have been employed by a school board participating in the County Employees Retirement System, a state-operated school under KRS Chapter 167, a participating community action agency, or a Kentucky institution of higher education which participates in the Kentucky Employees Retirement System, and who receive service credit for less than twelve (12) months each year, may purchase the additional months of service credit needed to total one (1) year of service credit except the amount purchased shall not exceed three (3) months. The employee may purchase the service credit by paying the retirement system a delayed contribution payment. Employees who have service credit prior to July 1, 1992, or their employers, the state-operated school under KRS Chapter 167, the Kentucky institution of higher education, or the school board may purchase service credit on behalf of the employee for previous years by paying the retirement system the delayed contribution payment.

- (b) The cost of service under this subsection may be paid by both the employer and employee. The employer shall pay fifty percent (50%) of the cost and the employee shall pay fifty percent (50%) of the cost. The payment by the employer shall not be deposited to the member's account. Service credit shall not be credited to the member's account until both the employer's and employee's payment are received by the retirement system.
 - (c) If the employee has purchased service credit under this subsection based on months reported by the employer for the fiscal year, and an audit of the employee's account reduces the number of months of service credit for which the employee is eligible to no fewer than nine (9) months, the employee shall retain credit for the months purchased unless the employee is ineligible for any service in the fiscal year. The employee shall be eligible to purchase the additional months under this subsection to total one (1) year.
 - (d) ***This subsection shall not apply to members who begin participating in the systems administered by Kentucky Retirement Systems on or after January 1, 2014.***
- (3) (a) An employee who is simultaneously eligible for membership in more than one (1) retirement system administered by the Kentucky Retirement Systems may, at his option, choose to participate in only one (1) of those systems. The choice, once made, shall remain in effect so long as the employee is eligible for membership in more than one (1) system.
 - (b) If the employee participates in more than one (1) of the retirement systems administered by the Kentucky Retirement Systems, the employee's service credit shall be divided between each system determined by dividing the employee's creditable compensation in each system by the employee's total creditable compensation in all systems.
 - (c) If the employee earns creditable compensation in both a hazardous position, as defined by KRS 61.592, and a nonhazardous position, the employee's service credit shall be divided between the employee's hazardous and nonhazardous positions determined by dividing the employee's creditable compensation in the hazardous and nonhazardous positions by the employee's combined hazardous and nonhazardous creditable compensation.

➔Section 49. KRS 61.546 is amended to read as follows:

- (1) Any member of the Kentucky Employees Retirement System or the State Police Retirement System whose retirement date is July 14, 1984, or thereafter, shall receive credit for unused sick leave accrued while contributing to the retirement system from which the retirement benefit is to be paid in accordance with this section.
- (2) Upon the member's notification of retirement as prescribed in KRS 16.576 or 61.590, the employer shall certify the retiring member's unused, accumulated sick leave balance to the system. The member's sick leave balance, expressed in days, shall be divided by the average number of working days per month in the state service and rounded to the nearest number of whole months. The member's sick leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 16.505 to 16.652 or 61.510 to 61.705 and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 16.505 to 16.652 or 61.510 to 61.705, except as provided by subsection (3) of this section. Accumulated sick leave in excess of six (6) months shall be added to the member's service credit, and the last participating Kentucky Employees Retirement Systems employer shall pay to the retirement system the value of the additional service credit based on the formula adopted by the board, except as provided by subsection (3) of this section. All of a state policeman's sick leave balance, expressed in months, except as provided by subsection (3) of this section, shall be added to his service credit for the purposes of determining his annual retirement allowance and whether the member is eligible to receive a retirement allowance under KRS 16.505 to 16.652.
- (3) For a member who begins participating in the Kentucky Employees Retirement System or the State Police Retirement System on or after September 1, 2008:
 - (a) The member shall receive no more than twelve (12) months of service credit upon retirement for accumulated unused sick leave accrued while contributing to the retirement system or systems from which the retirement benefit is to be paid;
 - (b) The service credited for accumulated unused sick leave and added to the member's service credit shall be used for purposes of determining the member's annual retirement allowance under KRS 16.505 to 16.652 and 61.510 to 61.705;

- (c) The service credited for accumulated unused sick leave and added to the member's service credit shall not be used to determine whether a member is eligible to receive a retirement allowance under any of the provisions of KRS 16.505 to 16.652 and 61.510 to 61.705; and
 - (d) Except as provided by subsection (4) of this section, the value of any accumulated unused sick leave in excess of six (6) months that is added to the member's service credit in the Kentucky Employees Retirement System shall be paid to the retirement system by the last participating Kentucky Employees Retirement System employer based upon the formula adopted by the board.
- (4) Notwithstanding any other provision of this section to the contrary, the value of any accumulated sick leave that is added to the member's service credit in the Kentucky Employees Retirement System or the State Police Retirement System on or after July 1, 2010, shall be paid to the retirement system by the last participating Kentucky Employees Retirement System or State Police Retirement System employer based upon a formula adopted by the board.
 - (5) The provisions of this section shall not apply to a participating agency whose employees are not employed by the Commonwealth until the agency certifies to the system that a sick leave program has been formally adopted and is universally administered within the agency.
 - (6) ***This section shall not apply to members who begin participating in the systems administered by Kentucky Retirement Systems on or after January 1, 2014.***

➔Section 50. KRS 61.552 is amended to read as follows:

- (1) Any employee participating in one (1) of the state-administered retirement systems who has been refunded his accumulated ***account balance***~~contributions~~ under the provisions of KRS 16.645(21), 61.625, or 78.545(15), thereby losing service credit, may regain the credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system. The payment, including interest as determined by the board, shall be deposited to the member's ~~contribution~~ account and considered as accumulated contributions of the individual member. The payments shall not be picked up, as described in KRS 61.560(4), by the employer. ***Service purchased under this subsection on or after January 1, 2014, shall not be used to determine the member's participation date in the system.***
- (2) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, and who did not elect membership in the County Employees Retirement System, as provided in KRS 78.540(2), may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.
- (3) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, and who did not elect membership in the Kentucky Employees Retirement System, as provided in KRS 61.525(2), may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.
- (4) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.
- (5) (a) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60)

months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

- (b) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for the period of his service with an area development district created pursuant to KRS 147A.050 or with a business development corporation created pursuant to KRS 155.001 to 155.230 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system in which he participates a delayed contribution payment, as determined by the board's actuary. The employee may obtain credit for employment with a business development corporation only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. Payment may be by lump sum or the employee may pay by increments.
- (6) After August 1, 2000, service credit obtained under the subsections of this section which do not require the employee to have a minimum number of years of service credit to be eligible to make a purchase shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member if the member does not obtain for service performed six (6) months' additional current service credit in one (1) of the state-administered retirement systems. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 16.582 or 61.600.
- (7) The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.
- (8) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65) in the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not participate in a defined benefit retirement program at the university may obtain credit in the employee's account in the County Employees Retirement System, the Kentucky Employees Retirement System, or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the County Employees, Kentucky Employees Retirement System, or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum, or the employee may pay by increments.
- (9)
 - (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);
 - (b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);
 - (c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for the service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of the service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;
 - (d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit

under subsection (4) or (5) of this section shall have his payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;

- (e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.
- (10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 prior to June 19, 1976, shall be credited to the individual member's ~~contribution~~ account in the appropriate retirement system and considered as accumulated contributions of the member.
- (11) Employees who served as assistants to officers and employees of the General Assembly who have at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems and who were unable to acquire service under KRS 61.510(20) may purchase credit for the service performed after January 1, 1960. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).
- (12) (a) Effective August 1, 1988, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for interim, seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred hours of work. The cost will be determined as a delayed contribution payment for the period of time involved, which shall not be picked up by the employer as described in KRS 61.560(4).
- (b) Any noncertified employee of a school board who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on a calendar or fiscal year basis by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment may be by lump sum or the employee may pay by increments. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board shall be allowed credit only for those months he receives creditable compensation for eighty (80) hours of work. The cost will be determined as a delayed contribution payment, which shall not be picked up by the employer as described in KRS 78.610(4).
- (13) A retired member, who is contributing to one (1) of the state-administered retirement programs under the provisions of KRS 61.637(1) to (4) and purchases service credit under this section in the system or systems from which he is retired, shall have his retirement allowance recomputed:
- (a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or
 - (b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.
- (14) Any employee participating in one (1) of the systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for prior or current service for any period of approved educational leave, or for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, by paying to the respective retirement system a delayed contribution payment. The employee may also obtain credit for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, but only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall

not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

- (15) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for prior or current service for any period of authorized maternity leave, unpaid leave authorized under the Federal Family and Medical Leave Act, or for any period of authorized sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.
- (16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 by making installment payments in lieu of a lump-sum payment.
 - (a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. The employee may elect to stop the installment payments by notifying the retirement system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal or a portion of the remaining principal.
 - (b) One (1) year of installment payments shall be made for each one thousand dollars (\$1,000) or any part thereof of the total cost, except that the total period allowed for installments shall not be less than one (1) year and shall not exceed five (5) years.
 - (c) The employee shall pay the installments by payroll deduction. Upon notification by the retirement system, the employer shall report the installment payments either monthly or semimonthly continuously over each twelve (12) month period at the same time as, but separate from, regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.
 - (d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.
 - (e) If the employee elects to stop the installment payments, dies, retires, or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have sixty (60) days to pay the remaining principal or a portion of the remaining principal of the purchase by lump sum, except that payment by the member shall be made prior to the effective retirement date. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased.
 - (f) If the employer does not report installment payments on an employee for sixty (60) days, except in the case of employees on military leave or sick leave without pay, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased. Installment payments of employees on military leave or sick leave without pay shall be suspended during the period of leave and shall resume without recalculation upon the employee's return from leave.
 - (g) If payments have ceased under paragraph (e) or (f) of this subsection and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection.

- (17) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 by transferring funds through a direct trustee-to-trustee transfer as permitted under the applicable sections of the Internal Revenue Code and any regulations or rulings issued thereunder, or through a direct rollover as contemplated by and permitted under 26 U.S.C. sec. 401(a)(31) and any regulations or rulings issued thereunder. Service credit may also be purchased by a rollover of funds pursuant to and permitted under the rules specified in 26 U.S.C. sec. 402(c) and 26 U.S.C. sec. 408(d)(3). The Kentucky Retirement Systems shall accept the transfer or rollover to the extent permitted under the rules specified in the applicable provisions of the Internal Revenue Code and any regulations and rulings issued thereunder. The amount shall be credited to the individual member's ~~contribution~~ account in the appropriate retirement system and shall be considered accumulated contributions of the member.
- (18) After August 1, 1998, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who is age sixty-five (65) or older and has forty-eight (48) months of service credit or, if younger, who has sixty (60) months of service credit in systems administered by Kentucky Retirement Systems may purchase credit in the system in which the employee has the service credit for up to ten (10) years service in a regular full-time position that was credited to a state or local government-administered public defined benefit plan in another state other than a defined benefit plan for teachers. The employee shall pay a delayed contribution payment. Payment may be by lump sum, or the employee may pay by increments. The employee may transfer funds directly from the other state's plan if eligible to the extent permitted under subsection (17) of this section and to the extent permitted by the other state's laws and shall provide proof that he is not eligible for a retirement benefit for the period of service from the other state's plan.
- (19) After August 1, 1998, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has sixty (60) or more months of service in the State Police Retirement System or in a hazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System, may purchase credit in the system in which the employee has the sixty (60) months of service credit for up to ten (10) years of service in a regular full-time position that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as hazardous pursuant to KRS 61.592. The employee shall pay a delayed contribution payment. Payment may be by lump sum or by increments. The employee may transfer funds directly from the other unit of government's plan if eligible to the extent permitted under subsection (17) of this section and to the extent permitted by the other state's laws, and the employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other unit of government's plan.
- (20) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems and who has completed service as a volunteer in the Kentucky Peace Corps, created by KRS 154.01-720, may purchase service credit for the time served in the corps by making delayed contribution payments.
- (21) An employee participating in any retirement system administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems, and who was formerly employed in a regional community services program for mental health and individuals with an intellectual disability, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system may obtain credit for the period of his service in the regional community program for mental health and individuals with an intellectual disability, by paying to the state retirement system in which he participates a delayed contribution payment. Payment to one (1) of the retirement systems administered by the Kentucky Retirement Systems may be made by lump sum or in increments.
- (22) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, who was employed by a vocational technical school in a noncertified part-time position averaging eighty (80) or more hours per month, determined by using the number of months actually worked within a calendar or fiscal year, may purchase service credit in the Kentucky Employees Retirement System. The cost of the service shall be a delayed contribution payment, which shall not be picked up by the employer as described in KRS 61.560(4).
- (23) (a) Any person who is entitled to service credit for employment which was not reported in accordance with KRS 16.543, 61.543, or 78.615 may obtain credit for the service by paying the employee contributions

due within six (6) months of notification by the system. No interest shall be added to the contributions. The service credit shall not be credited to the member's account until the employer contributions are received. If a retired member makes the payment within six (6) months, the retired member's retirement allowance shall be adjusted to reflect the added service after the employer contributions are received by the retirement system.

- (b) Any employee participating in one (1) of the state-administered retirement systems who is entitled to service credit under paragraph (a) of this subsection and who has not repaid the employee contributions due within six (6) months of notification by the system may regain the credit after the six (6) months by paying to the system the employee contributions plus interest at the actuarially assumed rate from the date of initial notification under paragraph (a) of this subsection. Service credit shall not be credited to the member's account until the employer contributions are received by the retirement system. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.
 - (c) Service purchased under this subsection by employees who begin participating on or after September 1, 2008, shall be considered service credited under KRS 16.543(1), 61.543(1), or 78.615(1) for purposes of determining eligibility for retirement benefits under KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852.
 - (d) ***Employees who begin participating on or after January 1, 2014, in the hybrid cash balance plan provided by Sections 8 and 9 of this Act shall, upon payment of the employee and employer contributions due under this subsection, have their accumulated account balance increased by the employee contributions, employer pay credits, and interest credits that would have been credited to their member's account if the contributions had been paid on time.***
- (24) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems may purchase service credit for employment with a public agency that would have been eligible to participate under KRS 61.520 but which did not participate in the Kentucky Employees Retirement System or a political subdivision that would have been eligible to participate under KRS 78.530 but which did not participate in the County Employees Retirement System if the former public agency or political subdivision has merged with or been taken over by a participating department or county. The cost of the service shall be determined as a delayed contribution payment for the respective retirement system. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or 78.610(4), by the employer.
- (25) Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems prior to July 15, 2002, who has accrued at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems and who has total service in all state-administered retirement systems of at least one hundred eighty (180) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit which is not otherwise purchasable under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852. The purchase price for the retirement service credit shall be calculated and paid for as a delayed contribution payment. The payment shall not be picked up, as described in KRS 16.545(4), 61.560(4), or 78.610(4), by the employer, and the employee's payment shall be paid into the individual member's ~~contribution~~ account in the appropriate retirement system and shall be considered accumulated contributions of the member. Payment by the member may be by lump sum or by increments. The service purchased under this subsection shall not be used in determining a retirement allowance until the member has accrued at least two hundred forty (240) months of service, excluding service purchased under this subsection. If the member does not accrue at least two hundred forty (240) months of service, excluding service purchased under this subsection, upon retirement, death, or written request following termination, the payment, plus interest as provided in KRS 61.575, shall be refunded.
- (26) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65), in the systems administered by Kentucky Retirement Systems, may obtain credit in the County Employees Retirement System for the period of that employee's service with a community action agency created under KRS 273.405 to 273.453 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system a delayed contribution payment. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or 78.610(4), by the employer.

- (27) The board of trustees is authorized to establish a program, subject to a favorable ruling from the Internal Revenue Service, to provide for the purchase of service credit under any of the provisions of KRS 16.505 to 16.552, 61.510 to 61.705, and 78.510 to 78.852, pursuant to the employer pick-up provisions in 26 U.S.C. sec. 414(h)(2).
- (28) An employee may obtain credit for regular full-time service with an agency prior to August 1, 1998, for which the employee did not receive credit due to KRS 61.637(1), by paying a delayed contribution. The payment shall not be picked up by the employer, except as provided in subsection (27) of this section, and shall be credited to the employee's second retirement account. Service credit obtained under this subsection shall not be used in determining benefits under KRS 61.702. The employee may purchase credit for service prior to August 1, 1998, if:
- (a) The employee retired from one (1) of the retirement systems administered by the Kentucky Retirement Systems and was reemployed prior to August 1, 1998, earning less than the maximum permissible earnings under the Federal Social Security Act;
 - (b) The employee elected to participate in a second retirement account effective August 1, 1998, in accordance with KRS 61.637(7); and
 - (c) The employee has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65), in a second account in the systems administered by Kentucky Retirement Systems.
- (29) An employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, may obtain credit for the service in a regular full-time position otherwise creditable under the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System for service in the United States government, other than service in the Armed Forces, for which service is not otherwise given, by paying to the system a delayed contribution payment. Payment may be made by lump sum or in increments. No payment made pursuant to this section shall be picked up by the employer, as described in KRS 61.560(4).
- (30) An employee participating in a hazardous position in one (1) of the retirement systems administered by the Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, may obtain credit for service in a regular full-time position in an urban-county government that would qualify for hazardous duty coverage under KRS 61.592 by paying to the system a delayed contribution payment. Payment may be made by lump sum or in increments. No payment made pursuant to this section shall be picked up by the employer, as described in KRS 61.560(4).
- (31) *Subsections (2) to (5), (8) to (15), (18) to (22), (24) to (26), and (28) to (30) of this section shall not apply to members who begin participating in the systems administered by Kentucky Retirement Systems on or after January 1, 2014.*

➔Section 51. KRS 61.555 is amended to read as follows:

- (1) After August 1, 1998, any employee entering the Armed Forces of the United States after he first participates in the system, who joins the Armed Forces within three (3) months of the last day of paid employment, being on leave of absence from service and not withdrawing his accumulated **account balance** ~~{contributions}~~, shall be credited for retirement purposes with service credit and creditable compensation as provided in 38 U.S.C. sec. 4318 for his period of active military duty in the Armed Forces of the United States, not to exceed six (6) years, if his discharge therefrom is honorable and he returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems within two (2) years after completion of the period of active military duty, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge. ***A member eligible for the benefit prescribed by this subsection who participates in the hybrid cash balance plan as provided by Sections 8 and 9 of this Act shall also have his or her member account credited with employee contributions, employer pay credits, and interest credits, as provided by Sections 8 and 9 of this Act, as though the member were employed during the member's period of active military duty described by this subsection.***
- (2) After August 1, 1998, any employee who, prior to the date he first participated in the system, terminated his employment with an agency participating in one (1) of the systems administered by the Kentucky Retirement Systems and within three (3) months entered the Armed Forces of the United States and who returns to work

with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems within two (2) years after completion of the period of active military duty, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge, shall be credited for retirement purposes with service credit and creditable compensation as provided in 38 U.S.C. sec. 4318 for his period of active military duty in the Armed Forces, not to exceed six (6) years. ***A member eligible for the benefit prescribed by this subsection who participates in the hybrid cash balance plan as provided by Sections 8 and 9 of this Act shall also have his or her member account credited with employee contributions, employer pay credits, and interest credits, as provided by Sections 8 and 9 of this Act, as though the member were employed during the member's period of active military duty described by this subsection.***

- (3) Any National Guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight (8) years' service while on military duty during this period, shall have that portion of his active military duty, necessary to the completion of eight (8) years' current service, credited to his account, as current service without having to meet the reemployment criteria.
- (4) Any employee eligible for retirement as prescribed in KRS 61.559 or any employee upon completion of five (5) years of service shall receive current service credit for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service under subsections (1) to (3) of this section if he pays thirty-five percent (35%) of the cost of the service based on the formula adopted by the board. The payment by the member shall not be picked up by the employer, as described in KRS 61.560(4), and shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for the purpose and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account, the system shall not accept employee payments until funds are available in the account.
- (5) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems eligible to purchase military service credit under subsection (4) of this section shall receive current service credit for active military duty as provided under subsection (4) of this section without payment of the current employee contribution ratio if the member was taken prisoner by a hostile power at any time during active military service.
- (6) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or if younger who has sixty (60) months of service, at least twelve (12) of which are current service shall receive current service for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is not dishonorable and he has not been credited with the service under subsections (1) to (4) of this section, by paying the retirement system a delayed contribution payment. Payment may be made by lump sum or in increments. The payment shall not be picked up by the employer as described in KRS 16.545(4), 61.560(4), or 78.610(4) and shall be deposited in the member's individual retirement account.
- (7) Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or if younger who has sixty (60) months of service, at least twelve (12) of which are current service, shall receive one (1) month of current service for each six (6) months of service in the National Guard or the military reserves of the United States, by paying the retirement system a delayed contribution payment. The service shall be treated as service earned prior to participation in the system and shall not be included in the member's final compensation. Payment may be made by lump sum or in increments. The payment shall not be picked up by the employer, as described in KRS 16.545(4), 61.560(4), or 78.610(4) and shall be deposited in the member's individual retirement account.
- (8) ***For members who begin participating in the systems administered by Kentucky Retirement Systems on or after January 1, 2014, in the hybrid cash balance plan prescribed by Sections 8 and 9 of this Act, the provisions of subsections (4) to (7) of this section shall not apply.***

➔Section 52. KRS 61.559 is amended to read as follows:

- (1) In lieu of any other benefits due under KRS 61.510 to 61.705 and 78.510 to 78.852, a member who begins participating before September 1, 2008, who has attained the age of sixty-five (65) and who has obtained at least one (1) month of service credit but no more than forty-seven (47) months of service may elect to receive

an annual retirement allowance payable monthly or less frequently, as determined by the board, which shall be determined by multiplying his accumulated contributions by two (2) and converting this amount to an annual retirement allowance based on an annuity rate adopted by the board which would pay the actuarial equivalent of twice his accumulated contributions over the lifetime of the retired member.

- (2) A member who begins participating before September 1, 2008, who is sixty-five (65) years of age or older is eligible for a retirement allowance determined under KRS 61.595 provided such member has forty-eight (48) months of service, at least twelve (12) of which are current service, or a retirement allowance determined under KRS 61.595 prior to age sixty-five (65) provided:
- (a) The member has attained age fifty-five (55) and has service of sixty (60) months at least twelve (12) of which are current service; or
 - (b) The member is a retired member of the State Police Retirement System, has attained age fifty-five (55), and has service of forty-eight (48) months at least twelve (12) of which are current service; or
 - (c) The member is less than age fifty-five (55) and has twenty-five (25) or more years of service, at least fifteen (15) of which are current service; or
 - (d) The member has thirty (30) or more years of service at least fifteen (15) of which are current service, or the member of the Kentucky Employees Retirement System or the County Employees Retirement System has twenty-seven (27) or more years of service, at least fifteen (15) of which are current service; or
 - (e) The member of the Kentucky Employees Retirement System has, at least, twenty-six (26) years of service credit, at least sixteen (16) of which are current consecutive years of service as a cabinet secretary or administrative head of one (1) of the three (3) branches of government; or
 - (f) The member has attained age fifty-five (55) and was an employee of a parted employer at the time his employer became ineligible to continue participation in the system, and his service in the system when added to his service with the parted employer subsequent to his separation from state government equals the early retirement service eligibility requirement of the system on the date his employer became ineligible to continue participation in the system.
- (3) A member who begins participating on or after September 1, 2008, **but prior to January 1, 2014**, is eligible for a retirement allowance determined under KRS 61.595 if:
- (a) The member is sixty-five (65) years of age or older and has at least five (5) years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system;
 - (b) The member is fifty-seven (57) years of age or older and has an age and years of service total of at least eighty-seven (87) years. The years of service used to determine eligibility for a retirement allowance under this paragraph shall only include years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system; or
 - (c) The member is sixty (60) years of age or older and has at least ten (10) years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system.
- (4) ***Subsections (1) to (3) of this section shall not apply to members who begin participating in the system on or after January 1, 2014. Members who begin participating in the system on or after January 1, 2014, shall receive the retirement benefits prescribed by Section 9 of this Act.***

➔Section 53. KRS 61.565 is amended to read as follows:

- (1) (a) Each employer participating in the State Police Retirement System as provided for in KRS 16.505 to 16.652, each employer participating in the County Employees Retirement System as provided for in KRS 78.510 to 78.852, and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute annually to the respective retirement system an amount equal to the percent, as computed under subsection (2) of this section, of the creditable compensation of its employees to be known as the "normal contributions," and an additional amount to be known as the "actuarially accrued liability contribution" which shall be computed by amortizing the total unfunded actuarially accrued liability over a period of thirty (30) years using the level-percentage-of-payroll amortization method. This method shall be used beginning with the 2007 actuarial valuation. The initial thirty (30) year amortization period shall begin with the 2007 *actuarial* valuation, ***except as provided by paragraph (b) of this subsection.***

- (b) *Effective with the 2013 actuarial valuation, the amortization period for the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System shall be reset to a new thirty (30) year period for purposes of calculating the actuarially accrued liability contribution prescribed by this subsection.*
- (c) Any significant increase in the actuarially accrued liability due to benefit improvements after the 2007 valuation shall be amortized using the level-percentage-of-payroll amortization method over a separate thirty (30) year period commencing in the year of the actuarial valuation in which the benefit improvements are first reflected.
- (2) The normal contribution rate shall be determined by the entry age normal cost funding method. The actuarially accrued liability shall be determined by actuarial method consistent with the methods prescribed for determining the normal contribution rate. Normal contributions and the actuarially accrued liability contribution shall be determined on actuarial bases adopted by the board.
- (3) (a) Normal contribution and the actuarially accrued liability contribution rates shall be determined by the board on the basis of the annual actuarial valuation last preceding the July 1 of a new biennium.
- (b) The board may amend contribution rates as of July 1 of the second year of a biennium *for the County Employees Retirement System*, if it is determined on the basis of a subsequent actuarial valuation that amended contribution rates are necessary to satisfy the requirements of subsections (1) and (2) of this section.
- (c) *Effective for employer contribution rates payable on or after July 1, 2014, the board shall not have the authority to amend contribution rates as of July 1 of the second year of the biennium for the Kentucky Employees Retirement System and the State Police Retirement System.*
- (4) The system shall advise each employer prior to the beginning of each biennium, or prior to July 1 of the second year of a biennium *for employers participating in the County Employees Retirement System*, of any change in the employer contribution rate. Based on the employer contribution rate, each employer shall include in the budget sufficient funds to pay the employer contributions as determined by the board under subsections (1) to (3) of this section.
- (5) ~~{(a) It is the intent of }The General Assembly shall pay the full actuarially required contribution rate, as prescribed by this section, to begin phasing into the full actuarially required contribution rates for~~ the Kentucky Employees Retirement System and the State Police Retirement System *in fiscal years occurring on or after July 1, 2014.*
- ~~{(b) For the employer contribution rate for the Kentucky Employees Retirement System pertaining to nonhazardous employees, it is the intent of the General Assembly to work towards the goal of contributing the actuarially required employer contribution as follows:~~
- ~~1. Forty four percent (44%) of the actuarially required contribution for the fiscal year beginning July 1, 2010;~~
 - ~~2. Forty eight percent (48%) of the actuarially required contribution for the fiscal year beginning July 1, 2011;~~
 - ~~3. Fifty three percent (53%) of the actuarially required contribution for the fiscal year beginning July 1, 2012;~~
 - ~~4. Fifty seven percent (57%) of the actuarially required contribution for the fiscal year beginning July 1, 2013;~~
 - ~~5. Sixty one percent (61%) of the actuarially required contribution for the fiscal year beginning July 1, 2014;~~
 - ~~6. Sixty five percent (65%) of the actuarially required contribution for the fiscal year beginning July 1, 2015;~~
 - ~~7. Sixty nine percent (69%) of the actuarially required contribution for the fiscal year beginning July 1, 2016;~~
 - ~~8. Seventy three percent (73%) of the actuarially required contribution for the fiscal year beginning July 1, 2017;~~

9. ~~Seventy seven percent (77%) of the actuarially required contribution for the fiscal year beginning July 1, 2018;~~
 10. ~~Eighty one percent (81%) of the actuarially required contribution for the fiscal year beginning July 1, 2019;~~
 11. ~~Eighty five percent (85%) of the actuarially required contribution for the fiscal year beginning July 1, 2020;~~
 12. ~~Eighty nine percent (89%) of the actuarially required contribution for the fiscal year beginning July 1, 2021;~~
 13. ~~Ninety three percent (93%) of the actuarially required contribution for the fiscal year beginning July 1, 2022;~~
 14. ~~Ninety seven percent (97%) of the actuarially required contribution for the fiscal year beginning July 1, 2023; and~~
 15. ~~One hundred percent (100%) of the actuarially required contribution for the fiscal year beginning July 1, 2024.~~
- (c) ~~For the employer contribution rate for the Kentucky Employees Retirement System pertaining to hazardous employees, it is the intent of the General Assembly to work towards the goal of contributing the full actuarially required employer contribution as follows:~~
1. ~~Seventy six percent (76%) of the actuarially required contribution for the fiscal year beginning July 1, 2010;~~
 2. ~~Seventy nine percent (79%) of the actuarially required contribution for the fiscal year beginning July 1, 2011;~~
 3. ~~Eighty three percent (83%) of the actuarially required contribution for the fiscal year beginning July 1, 2012;~~
 4. ~~Eighty six percent (86%) of the actuarially required contribution for the fiscal year beginning July 1, 2013;~~
 5. ~~Eighty nine percent (89%) of the actuarially required contribution for the fiscal year beginning July 1, 2014;~~
 6. ~~Ninety two percent (92%) of the actuarially required contribution for the fiscal year beginning July 1, 2015;~~
 7. ~~Ninety five percent (95%) of the actuarially required contribution for the fiscal year beginning July 1, 2016;~~
 8. ~~Ninety eight percent (98%) of the actuarially required contribution for the fiscal year beginning July 1, 2017; and~~
 9. ~~One hundred percent (100%) of the actuarially required contribution for the fiscal year beginning July 1, 2018.~~
- (d) ~~For the employer contribution rate for the State Police Retirement System, it is the intent of the General Assembly to work towards the goal of contributing the full actuarially required employer contribution as follows:~~
1. ~~Sixty percent (60%) of the actuarially required contribution for the fiscal year beginning July 1, 2010;~~
 2. ~~Sixty five percent (65%) of the actuarially required contribution for the fiscal year beginning July 1, 2011;~~
 3. ~~Seventy percent (70%) of the actuarially required contribution for the fiscal year beginning July 1, 2012;~~
 4. ~~Seventy five percent (75%) of the actuarially required contribution for the fiscal year beginning July 1, 2013;~~
 5. ~~Eighty percent (80%) of the actuarially required contribution for the fiscal year beginning July 1, 2014;~~

6. ~~Eighty five percent (85%) of the actuarially required contribution for the fiscal year beginning July 1, 2015;~~
7. ~~Ninety percent (90%) of the actuarially required contribution for the fiscal year beginning July 1, 2016;~~
8. ~~Ninety five percent (95%) of the actuarially required contribution for the fiscal year beginning July 1, 2017;~~
9. ~~Ninety eight percent (98%) of the actuarially required contribution for the fiscal year beginning July 1, 2018; and~~
10. ~~One hundred percent (100%) of the actuarially required contribution for the fiscal year beginning July 1, 2019.]~~

- (6) Notwithstanding any other provision of KRS Chapter 61 to the contrary, the board shall establish employer contribution rates for the County Employees Retirement System that will phase in to the full actuarially required contribution for the health insurance fund over a ten (10) year period using the 2007-2008 fiscal year employer contribution for the health insurance fund as a base employer rate and incrementally increasing the employer rate from fiscal year 2008-2009 through fiscal year 2017-2018.

➔Section 54. KRS 61.570 is amended to read as follows:

All of the assets of the system shall be held and invested in the Kentucky employees retirement fund and credited, according to the purpose for which they are held, to one (1) of three (3) accounts, namely, the members' ~~{contribution}~~ account, the retirement allowance account, and accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b).

➔Section 55. KRS 61.575 is amended to read as follows:

- (1) The members' ~~{contribution}~~ account shall be the account to which:
- (a) All members' contributions, or contributions picked up by the employer after August 1, 1982, and interest allowances as provided in KRS 61.510 to 61.692 shall be credited, except as provided by KRS 61.702(2)(b); **and**
 - (b) ***For members who begin participating in the system on or after January 1, 2014, the employer pay credit and interest credited on such amounts as provided by Sections 8 and 9 of this Act shall be credited.***
- Only funds*** from this account shall be ***used to return*** ~~{paid}~~ the accumulated contributions ***or accumulated account balances*** of a member ***when required by reason of any provision of KRS 61.510 to 61.705*** ~~{to be returned to him upon withdrawal, or paid in the event of his death before retirement}~~. Prior to the member's retirement, death, or refund in accordance with KRS 61.625, no funds shall be made available from the member ~~{contribution}~~ account.
- (2) Each member's contribution or contribution picked up by the employer shall be credited to the individual account of the contributing member, except as provided by KRS 61.702(2)(b).
- (3) (a) Each member ~~{on June 30 of each year}~~ shall have his individual account credited with interest ***on June 30 of each fiscal year.***
- (b) For a member who begins participating before September 1, 2008, interest shall be credited to his individual account at a rate determined by the board but not less than two percent (2%) per annum on the accumulated ***account balance*** ~~{contributions}~~ of the member on June 30 of the preceding fiscal year.
 - (c) For a member who begins participating on or after September 1, 2008, ***but prior to January 1, 2014,*** interest shall be credited to his individual account at a rate of two and one-half percent (2.5%) per annum on the accumulated ***account balance*** ~~{contributions}~~ of the member on June 30 of the preceding fiscal year.
 - (d) ***For a member who begins participating on or after January 1, 2014, in the hybrid cash balance plan, interest shall be credited in accordance with Sections 8 and 9 of this Act.***
 - (e) The amounts of interest credited to a member's account under this subsection shall be transferred from the retirement allowance account.

- (4) (a) Upon the retirement of a member *who began participating in the system prior to January 1, 2014*, his or her accumulated **account balance** ~~contributions~~ shall be transferred from the members' ~~contribution~~ account to the retirement allowance account.
- (b) *Upon the retirement of a member who began participating in the system on or after January 1, 2014, who elects to annuitize his or her accumulated account balance as prescribed by subsection (7)(a) or (b) of Section 8 of this Act or subsection (7)(a) or (b) of Section 9 of this Act, the member's accumulated account balance shall be transferred to the retirement allowance account.*

→Section 56. KRS 61.580 is amended to read as follows:

The retirement allowance account shall be the account in which shall be accumulated all employer contributions and amounts transferred from the members' ~~contribution~~ account, and to which all income from the invested assets of the system shall be credited. From this account shall be paid the expenses of the system and the board incurred in administration of the system, retirement allowances, and any other benefits payable after a member's retirement and from this account shall be transferred to the members' ~~contribution~~ account:

- (1) *The employer pay credit added monthly to each member's individual accounts as provided by Sections 8 and 9 of this Act; and*
- (2) The interest credited annually to each member's individual account as provided by KRS **61.510 to 61.705** ~~61.575~~.

→Section 57. KRS 61.592 is amended to read as follows:

- (1) (a) "Hazardous position" for employees participating in the Kentucky Employees Retirement System, and for employees who begin participating in the County Employees Retirement System before September 1, 2008, means:
1. Any position whose principal duties involve active law enforcement, including the positions of probation and parole officer and Commonwealth detective, active fire suppression or prevention, or other positions, including, but not limited to, pilots of the Transportation Cabinet and paramedics and emergency medical technicians, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning;
 2. Positions in the Department of Corrections in state correctional institutions and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates; and
 3. Positions of employees who elect coverage under KRS 196.167(3)(b)2. and who continue to provide educational services and support to inmates as a Department of Corrections employee.
- (b) "Hazardous position" for employees who begin participating in the County Employees Retirement System on or after September 1, 2008, means police officers and firefighters as defined in KRS 61.315(1), paramedics, correctional officers with duties that routinely and regularly require face-to-face contact with inmates, and emergency medical technicians if:
1. The employee's duties require frequent exposure to a high degree of danger or peril and a high degree of physical conditioning; and
 2. The employee's duties are not primarily clerical or administrative.
- (c) The effective date of participation under hazardous duty coverage for positions in the Department of Alcoholic Beverage Control shall be April 1, 1998. The employer and employee contributions shall be paid by the employer and forwarded to the retirement system for the period not previously reported.
- (2) (a) Each employer may request of the board hazardous duty coverage for those positions as defined in subsection (1) of this section. Upon request, each employer shall certify to the system, in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in subsection (1) of this section for which coverage is requested. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The system shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section. This process shall not be required for employees who elect coverage under KRS 196.167(3)(b)2.

- (b) Each employer desiring to provide hazardous duty coverage to employees who begin participating in the County Employees Retirement System on or after September 1, 2008, may request that the board approve hazardous duty coverage for those positions that meet the criteria set forth in subsection (1)(b) of this section. Each employer shall certify to the system, in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in subsection (1)(b) of this section for which coverage is requested and a job description for each position or employee. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. Each employer shall also certify, under penalty of perjury in accordance with KRS Chapter 523, that each employee's actual job duties are accurately reflected in the job description provided to the system. The system shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as defined in subsection (1)(b) of this section. The board shall have the authority to remove any employee from hazardous duty coverage if the board determines the employee is not working in a hazardous duty position or if the employee is classified in a hazardous duty position but has individual job duties that do not meet the definition of a hazardous duty position or are not accurately reflected in the job descriptions filed by the employer with the system.
- (3) (a) An employee who elects coverage under KRS 196.167(3)(b)2., and an employee participating in the Kentucky Employees Retirement System who is determined by the system to be working in a hazardous position in accordance with subsection (2) of this section, shall contribute, for each pay period for which he receives compensation, eight percent (8%) of his creditable compensation. An employee participating in the County Employees Retirement System who is determined by the system to be working in a hazardous duty position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, eight percent (8%) of his creditable compensation.
- (b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the system to be working in a hazardous position at the employer contribution rate as determined by the board. The rate shall be determined by actuarial methods consistent with the provisions of KRS 61.565.
- (c) If the employer participated in the system prior to electing hazardous duty coverage, the employer may pay to the system the cost of converting the nonhazardous service to hazardous service from the date of participation to the date the payment is made, or the employer may establish a payment schedule for payment of the cost of the hazardous service above that which would be funded within the existing employer contribution rate. The employer may extend the payment schedule to a maximum of thirty (30) years. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. If the employer elects not to make the additional payment, the employee may make the lump-sum payment in his own behalf or may pay by increments. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous. ***The provisions of this paragraph shall not apply to members who begin participating in the systems administered by Kentucky Retirement Systems on or after January 1, 2014.***
- (4) The normal retirement age, retirement allowance, ***hybrid cash balance plans***, other benefits, eligibility requirements, rights, and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and the responsibilities, rights, and requirements of his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for by KRS 16.505 to 16.652.
- (5) Any person employed in a hazardous position after July 1, 1972, shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the system upon request.
- (6) If doubt exists regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.510 to 61.705, or 78.510 to 78.852, or 16.505 to 16.652.

➔Section 58. KRS 61.595 is amended to read as follows:

- (1) Effective July 1, 1990, upon retirement at normal retirement date or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) for the County Employees Retirement System and one and ninety-seven hundredths percent (1.97%) for the Kentucky Employees Retirement System of final compensation multiplied by the number of years of service credit, except that:
 - (a) Effective February 1, 1999, a member of the Kentucky Employees Retirement System who was participating in one (1) of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, shall receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two percent (2%) of final compensation multiplied by the number of years of service credit. Any Kentucky Employees Retirement System member whose effective date of retirement is between February 1, 1999, and January 31, 2009, and who has at least twenty (20) years of service credit in one (1) of the state-administered retirement systems and who was participating in one (1) of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, shall receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) of final compensation multiplied by the number of years of service credit. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance account;
 - (b) For a member of the County Employees Retirement System whose participation begins on or after August 1, 2004, the annual retirement allowance upon retirement at normal retirement date or later shall be equal to two percent (2%) of final compensation multiplied by the number of years of service credit and shall be payable monthly during his lifetime;
 - (c) The annual normal retirement allowance for members of the General Assembly, who serve during the 1974 or 1976 General Assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than two hundred forty dollars (\$240) multiplied by the number of years of service as a member of the General Assembly;
 - (d) For a member of the Kentucky Employees Retirement System or the County Employees Retirement System who begins participating on or after September 1, 2008, the annual retirement allowance upon retirement shall be equal to:
 1.
 - a. One and one-tenth percent (1.1%) of final compensation for each year of service if the member has earned ten (10) or less years of service at retirement;
 - b. One and three-tenths percent (1.3%) of final compensation for each year of service if the member has earned greater than ten (10) but no more than twenty (20) years of service at retirement;
 - c. One and one-half percent (1.5%) of final compensation for each year of service if the member has earned greater than twenty (20) but no more than twenty-six (26) years of service at retirement; or
 - d. One and three-quarters percent (1.75%) of final compensation for each year of service if the member has earned greater than twenty-six (26) but no more than thirty (30) years of service at retirement; and
 2. Two percent (2.0%) of final compensation for each year of service earned in excess of thirty (30) years of service at retirement;
 - (e) The annual normal retirement allowance for members of the General Assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 General Assembly for legislative service prior to January 1, 1974;
 - (f) Former members of the General Assembly who have eight (8) or more years of legislative service prior to the 1976 Regular Session are eligible for an increased retirement allowance of two hundred forty dollars (\$240) times the years of legislative service, if the member pays to the Kentucky Employees Retirement System thirty-five percent (35%) of the actuarial cost of the higher benefit, as determined by the system, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five percent (65%) of the computed actuarial cost shall be paid from the State Treasury to the Kentucky Employees Retirement

System upon presentation of a properly documented claim to the Finance and Administration Cabinet. If any member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph, and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication; *and*

- (g) The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky Employees Retirement System, at least one (1) of which is current service, shall not be less than five hundred twelve dollars (\$512); ~~and~~
 - ~~(h) The annual retirement allowance for a member of the Kentucky employees retirement system or County Employees Retirement System shall not exceed the maximum benefit as set forth in the Internal Revenue Code.~~
- (2) (a) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced at an amount determined by the board's actuary to reflect the earlier commencement of benefits.
 - (b) A member of the Kentucky Employees Retirement System or the County Employees Retirement System who begins participating before September 1, 2008, who has twenty-seven (27) or more years of service credit, at least fifteen (15) of which are current service, may retire with no reduction in the retirement allowance. A member who begins participating before September 1, 2008, who has earned vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education, the Council on Postsecondary Education, or the Higher Education Assistance Authority, may count the vested service toward attaining the necessary years of service credit as provided in KRS 61.559(2)(c) and (d) to qualify for a retirement allowance. The credit from a Kentucky institution of higher education, the Council on Postsecondary Education, or the Higher Education Assistance Authority shall not be used toward the minimum fifteen (15) years of current service required by KRS 61.559(2)(c) and (d) or to calculate his retirement allowance pursuant to this section. The provisions of this paragraph shall not be construed to limit the use of Teachers' Retirement System credit pursuant to KRS 61.680(2)(a).
 - (c) A member of the Kentucky Employees Retirement System or the County Employees Retirement System who begins participating on or after September 1, 2008, may retire with no reduction in benefits if the member is fifty-seven (57) years of age or older and has an age and years of service total of at least eighty-seven (87) years. The years of service used to determine eligibility for an unreduced retirement allowance under this paragraph shall only include years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system.
- (3) ***Subsections (1) and (2) of this section shall not apply to members who begin participating in the system on or after January 1, 2014. Members who begin participating in the system on or after January 1, 2014, shall receive the retirement benefits prescribed by Section 9 of this Act.*** ~~The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the State Treasurer shall be requested to issue the initial retirement payment.~~
 - ~~{(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is two dollars (\$2) greater or less than the amount of the initial retirement payment. If the member or beneficiary chose an actuarial equivalent refund payment option, the amount of estimated retirement allowance shall be the official retirement allowance unless the new calculation produces an amount which is one hundred dollars (\$100) greater or less than the amount of the initial retirement payment.}~~

➔Section 59. KRS 61.605 is amended to read as follows:

- (1) Upon disability retirement, an employee may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his disability except that service

credit shall be added to the person's total service beginning with his last date of paid employment and continuing to his sixty-fifth birthday; however, the maximum service credit added shall not exceed the total service the person had upon his last day of paid employment, and the maximum combined service credit for calculating his disability retirement allowance, including total service and added service shall not exceed twenty-five (25) years. If, however, a person has accumulated twenty-five (25) or more years of total service, he shall receive added service necessary to bring his combined service credit, including total and added service, to twenty-seven (27) years.

- (2) (a) For a member whose participation begins on or after August 1, 2004, **but prior to January 1, 2014**, the disability retirement allowance shall be the higher of twenty percent (20%) of the member's monthly final rate of pay or the retirement allowance determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his disability.
- (b) ***For a member who begins participating on or after January 1, 2014, in the hybrid cash balance plan as provided by Section 9 of this Act, the disability retirement allowance shall be the higher of twenty percent (20%) of the member's monthly final rate of pay or the retirement allowance determined in the same manner as for retirement at his or her normal retirement date under Section 9 of this Act.***

➔Section 60. KRS 61.615 is amended to read as follows:

- (1) If the board's medical examiner determines that a recipient of a disability retirement allowance is, prior to his normal retirement date, employed in a position with the same or similar duties, or in a position with duties requiring greater residual functional capacity and physical exertion, as the position from which he was disabled, except where the recipient has returned to work on a trial basis not to exceed nine (9) months, the system may reduce or discontinue the retirement allowance. Each recipient of a disability retirement allowance who is engaged in gainful employment shall notify the system of any employment; otherwise, the system shall have the right to recover payments of a disability retirement allowance made during the employment.
- (2) If the board's medical examiner determines that a recipient of a disability retirement allowance is, prior to his normal retirement date, no longer incapacitated by the bodily injury, mental illness, or disease for which he receives a disability retirement allowance, the board may reduce or discontinue the retirement allowance.
- (3) The system shall have full power and exclusive authority to reduce or discontinue a disability retirement allowance and the system shall utilize the services of a medical examiner as provided in KRS 61.665, in determining whether to continue, reduce, or discontinue a disability retirement allowance under this section.
- (a) The system shall select a medical examiner to evaluate the forms and medical information submitted by the person. If there is objective medical evidence of a mental impairment, the medical examiner may request the board's licensed mental health professional to assist in determining the level of the mental impairment.
- (b) The medical examiners shall be paid a reasonable amount by the retirement system for each case evaluated.
- (c) The medical examiner shall recommend that disability retirement allowance be continued, reduced, or discontinued.
1. If the medical examiner recommends that the disability retirement allowance be continued, the system shall make retirement payments in accordance with the retirement plan selected by the person.
 2. If the medical examiner recommends that the disability retirement allowance be reduced or discontinued, the system shall send notice of the recommendation by United States first-class mail to the person's last address on file in the retirement office.
 - a. The person shall have sixty (60) days from the day that the system mailed the notice to file at the retirement office additional supporting employment or medical information and certify to the retirement office that the forms and additional supporting employment information or medical information are ready to be evaluated by the medical examiner or to appeal the recommendation of the medical examiner to reduce or discontinue the disability retirement allowance by filing at the retirement office a request for a formal hearing.

- b. If the person fails or refuses to file at the retirement office the forms, the additional supporting employment information, and current medical information or to appeal the recommendation of the medical examiners to reduce or discontinue the disability retirement allowance, his retirement allowance shall be discontinued on the first day of the month following the expiration of the period of the sixty (60) days from the day the system mailed the notice of the recommendation to the person's last address on file in the retirement office.
 - (d) The medical examiner shall make a recommendation based upon the evaluation of additional supporting medical information submitted in accordance with paragraph (c)2.a. of this subsection.
 - 1. If the medical examiner recommends that the disability retirement allowance be continued, the system shall make disability retirement payments in accordance with the retirement plan selected by the person.
 - 2. If the medical examiner recommends that the disability retirement allowance be reduced or discontinued based upon the evaluation of additional supporting medical information, the system shall send notice of this recommendation by United States first-class mail to the person's last address on file in the retirement office.
 - a. The person shall have sixty (60) days from the day that the system mailed the notice of the recommendation to appeal the recommendation to reduce or discontinue the disability retirement allowance by filing at the retirement office a request for formal hearing.
 - b. If the person fails or refuses to appeal the recommendation of the medical examiners to reduce or discontinue the disability retirement allowance, his retirement allowance shall be discontinued on the first day of the month following the expiration of the period of the sixty (60) days from the day the system mailed the notice of the recommendation to the person's last address on file in the retirement office.
 - (e) Any person whose disability benefits have been reduced or discontinued, pursuant to paragraph (c)2. or (d)2. of this subsection, may file at the retirement office a request for formal hearing to be conducted in accordance with KRS Chapter 13B. The right to demand a formal hearing shall be limited to a period of sixty (60) days after the person had notice, as described in paragraph (c) or (d) of this subsection. The request for formal hearing shall be filed with the system, at the retirement office in Frankfort. The request for formal hearing shall include a short and plain statement of the reasons the reduction, discontinuance, or denial of disability retirement is being contested.
 - (f) Failure of the person to request a formal hearing within the period of time specified shall preclude the person from proceeding any further with contesting the reduction or discontinuation of disability retirement allowance, except as provided in subsection (6)(d) of this section. This paragraph shall not limit the person's right to appeal to a court.
 - (g) A final order of the board shall be based on substantial evidence appearing in the record as a whole and shall set forth the decision of the board and the facts and law upon which the decision is based. If the board orders that the person's disability retirement allowance be discontinued or reduced, the order shall take effect on the first day of the month following the day the system mailed the order to the person's last address on file in the retirement office. Judicial review of the final board order shall not operate as a stay and the system shall discontinue or reduce the person's disability retirement allowance as provided in this section.
 - (h) Notwithstanding any other provisions of this section, the system may require the person to submit to one (1) or more medical or psychological examinations at any time. The system shall be responsible for any costs associated with any examinations of the person requested by the medical examiner or the system for the purpose of providing medical information deemed necessary by the medical examiner or the system. Notice of the time and place of the examination shall be mailed to the person or his legal representative. If the person fails or refuses to submit to one (1) or more medical examinations, his rights to further disability retirement allowance shall cease.
 - (i) All requests for a hearing pursuant to this section shall be made in writing.
- (4) The board may establish an appeals committee whose members shall be appointed by the chair and who shall have the authority to act upon the recommendations and reports of the hearing officer pursuant to this section on behalf of the board.

- (5) Any person aggrieved by a final order of the board may seek judicial review after all administrative appeals have been exhausted by filing a petition for judicial review in the Franklin Circuit Court in accordance with KRS Chapter 13B.
- (6) If a disability retirement allowance is reduced or discontinued *for a person who began participating in the system prior to January 1, 2014*, the person may apply for early retirement benefits as provided under KRS 61.559, subject to the following provisions:
 - (a) The person may not change his beneficiary or payment option;
 - (b) If the person has returned to employment with an employer participating in one (1) of the systems administered by Kentucky Retirement Systems, the service and creditable compensation shall be used in recomputing his benefit, except that the person's final compensation shall not be less than the final compensation last used in determining his retirement allowance;
 - (c) The benefit shall be reduced as provided by KRS 61.595(2);
 - (d) The person shall remain eligible for reinstatement of his disability allowance upon reevaluation by the medical review board until his normal retirement age. The person shall apply for reinstatement of disability benefits in accordance with the provisions of this section. An application for reinstatement of disability benefits shall be administered as an application under KRS 61.600, and only the bodily injuries, mental illnesses, diseases, or conditions for which the person was originally approved for disability benefits shall be considered. Bodily injuries, mental illnesses, diseases, or conditions that came into existence after the person's last day of paid employment shall not be considered as a basis for reinstatement of disability benefits. Bodily injuries, mental illnesses, diseases, or conditions alleged by the person as being incapacitating, but which were not the basis for the award of disability retirement benefits, shall not be considered. If the person establishes that the disability benefits should be reinstated, the retirement system shall pay disability benefits effective from the first day of the month following the month in which the person applied for reinstatement of the disability benefits; and
 - (e) Upon attaining normal retirement age, the person shall receive the higher of either his disability retirement allowance or his early retirement allowance.
- (7) No disability retirement allowance shall be reduced or discontinued by the system after the person's normal retirement date except in case of reemployment as provided for by KRS 61.637. If a disability retirement allowance has been reduced or discontinued, except if the person is reemployed as provided for by KRS 61.637, the retirement allowance shall be reinstated upon attainment of the person's normal retirement date to the retirement allowance prior to adjustment. No reinstated payment shall be less than the person is receiving upon attainment of the person's normal retirement date.

➔Section 61. KRS 61.621 is amended to read as follows:

- (1) Notwithstanding any provision of any statutes to the contrary, effective June 1, 2000, any employee participating in one (1) of the state-administered retirement systems who is not in a hazardous duty position, as defined in KRS 61.592, shall be eligible for minimum benefits equal to the benefits payable under this section or KRS 61.702 if the employee dies or becomes totally and permanently disabled to engage in any occupation for remuneration or profit as a result of a duty-related injury.
- (2) (a) For purposes of this section, "duty-related injury" means:
 1. a. A single traumatic event that occurs while the employee is performing the duties of his position; or
 - b. A single act of violence committed against the employee that is found to be related to his job duties, whether or not it occurs at his job site; and
 2. The event or act of violence produces a harmful change in the human organism evidenced by objective medical findings.
- (b) Duty-related injury does not include the effects of the natural aging process, a communicable disease unless the risk of contracting the disease is increased by nature of the employment, or a psychological, psychiatric, or stress-related change in the human organism unless it is the direct result of a physical injury.

- (3) (a) If the employee dies as a result of a duty-related injury and is survived by a spouse, the surviving spouse shall be the beneficiary, and this shall supersede the designation of all previous beneficiaries of the deceased employee's retirement account.
- (b) The surviving spouse may elect to receive the benefits payable under KRS 61.640 or other applicable death benefit statutes, or may elect to receive a lump-sum payment of ten thousand dollars (\$10,000) and a monthly payment equal to twenty-five percent (25%) of the member's monthly final rate of pay beginning in the month following the member's death and continuing each month until death.
- (4) If the employee is determined to be disabled as provided in KRS 61.600, or other applicable disability statutes in any other state-administered retirement system, as the result of a duty-related injury, the employee may elect to receive benefits determined under the provisions of KRS 61.605, or other applicable disability statutes in any other state-administered retirement system, except that the monthly retirement allowance shall not be less than twenty-five percent (25%) of the employee's monthly final rate of pay. For purposes of determining disability, the service requirement in KRS 61.600(1)(a), or other applicable statutes in any other state-administered retirement system, shall be waived.
- (5) In the period of time following a member's death or disability during which dependent children survive, a monthly payment shall be made for each dependent child who is alive which shall be equal to ten percent (10%) of the deceased or disabled member's monthly final rate of pay; however, total maximum dependent children's benefits shall not exceed forty percent (40%) of the deceased or disabled member's monthly final rate of pay at the time any particular payment is due. The payment shall commence in the month following the date of death or disability of the member and shall be payable to the beneficiaries, or to a legally appointed guardian, or as directed by the system. Benefits for death as a result of a duty-related injury shall be payable under this subsection notwithstanding an election by a beneficiary to withdraw the deceased member's accumulated **account balance**~~contributions~~ as provided in KRS 61.625 or benefits under any other provisions of KRS 61.515 to 61.705 or other applicable death benefit statutes in any other state-administered retirement system.
- (6) This section shall be known as "The Fred Capps Memorial Act."

➔Section 62. KRS 61.625 is amended to read as follows:

- (1) (a) ***Prior to the member's effective retirement date***, a member if living, or if not living, his designated beneficiary, shall have the right to request a refund of his accumulated **account balance if the member's employment has been terminated and the member is not participating in the same system.**~~contributions, including the amount of any employee contributions picked up by the employer pursuant to KRS 61.560(4).]~~
- (b) ***Upon the death of a member occurring on or after his or her effective retirement date, the member's beneficiary shall have the right to request a refund of the member's accumulated contributions,*** reduced by the amount of any retirement allowances previously received~~[if the member's employment has been terminated and the member is not participating in the same retirement system].~~
- (2) Payments made under this section shall be in lieu of any other benefits due for the period of service under any of the provisions of KRS ~~16.505~~~~[16.510]~~ to 16.652, ~~61.510~~~~[61.515]~~ to 61.705, and ~~78.510~~~~[78.520]~~ to 78.852, unless the period of service is regained as provided under KRS 61.552. Payments of taxable distributions made pursuant to this section shall be subject to state and federal tax as appropriate.
- (3) A refund of contributions of members whose benefits have been terminated pursuant to KRS 6.696 shall be governed by that section.
- (4) ***A refund of contributions to members whose benefits have been terminated pursuant to subsection (3) of Section 46 of this Act shall be governed by the provisions of that subsection.***

➔Section 63. KRS 61.635 is amended to read as follows:

- (1) Each member shall have the right to elect to have his retirement allowance payable under any one (1) of the options set forth in this section in lieu of the retirement allowance otherwise payable to him upon retirement under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852. The amount of any optional retirement allowance shall be actuarially equivalent to the amount of retirement allowance otherwise payable to him.

- (2) Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during his lifetime and have the retirement allowance continued after his death to his beneficiary during the lifetime of the person.
- (3) Survivorship sixty-six and two-thirds percent (66-2/3%). The member may elect to receive a decreased retirement allowance during his lifetime and have two-thirds (2/3) of the retirement allowance continue after his death to his beneficiary during the lifetime of the person.
- (4) Survivorship fifty percent (50%). The member may elect to receive a decreased retirement allowance during his lifetime and have one-half (1/2) of the retirement allowance continued after his death to his beneficiary during the lifetime of the person.
- (5) Life with ten (10) years certain. The member less than age seventy-six (76) may elect to receive a monthly retirement allowance during his lifetime which shall guarantee payments for one hundred twenty (120) months. If the member dies before receiving payments for one hundred twenty (120) months, his beneficiary shall receive the remaining payments monthly, for the duration of the one hundred twenty (120) months' period. However, if the trust is designated as beneficiary, the trustee of the trust may elect to receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments, or the trustee may elect to continue the remaining monthly payments to the trust of the member. If the estate is designated as beneficiary, the estate shall receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments.
- (6) Life with fifteen (15) years certain. The member less than age sixty-eight (68) may elect to receive a monthly retirement allowance during his lifetime which shall guarantee payments for one hundred and eighty (180) months. If the member dies before receiving payments for one hundred and eighty (180) months, his beneficiary shall receive the remaining payments monthly for the duration of the one hundred and eighty (180) months' period. However, if the trust is designated as beneficiary, the trustee of the trust may elect to receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments, or the trustee may elect to continue the remaining payments to the trust of the member. If the estate is designated as beneficiary, the estate shall receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments.
- (7) Life with twenty (20) years certain. The member less than age sixty-two (62) may elect to receive a monthly retirement allowance during his lifetime which shall guarantee payments for two hundred and forty (240) months. If the member dies before receiving payments for two hundred and forty (240) months, his beneficiary shall receive the remaining payments for the duration of the two hundred and forty (240) months period. However, if the trust is beneficiary, the trustee of the trust may elect to receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments, or the trustee may elect to continue the remaining payments to the trust of the member. If the estate is designated as beneficiary, the estate shall receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments.
- (8) Social Security adjustment options. These options shall be available to any member who has not attained age sixty-two (62) as follows:
 - (a) No survivor rights. The member may elect to receive an increased retirement allowance from his effective retirement date through the month he attains age sixty-two (62) at which time his retirement allowance shall be decreased for the remainder of his lifetime;
 - (b) Survivor rights. The member may elect to receive an increased retirement allowance from his effective retirement date through the month he attains age sixty-two (62) based on the option payable under subsection (2) of this section, if the retirement allowance shall be decreased in the month following the month he attains age sixty-two (62), or the month following the month he would have attained age sixty-two (62), in event of his death, and have the retirement allowance continue after his death to his beneficiary during the lifetime of the person.
- (9) Beneficiary Social Security adjustment option. This option is available to the beneficiary of a deceased member if the beneficiary, who is a person, has not attained age sixty (60), and is eligible to receive Social Security payments at age sixty (60). The beneficiary may elect to receive during his lifetime an increased retirement allowance based on his annual benefit payable for life. The payment shall begin on his effective retirement date and continue through the month he attains age sixty (60) at which time his retirement allowance shall be decreased for the remainder of his lifetime.
- (10) Pop-up option. The member may elect to receive a decreased retirement allowance during his lifetime and have the retirement allowance continued after his death to his beneficiary during the lifetime of the person. If the beneficiary dies prior to the member, or if the beneficiary is the member's spouse and they divorce, the

member's retirement allowance shall increase to the amount that would have been payable as a single life annuity.

- (11) Actuarial equivalent refund. A ~~The~~ member **who began participating in the system prior to January 1, 2014**, may elect to receive a one (1) time lump-sum payment which shall be the actuarial equivalent of the amount payable for a period of sixty (60) months under KRS 61.595 (1).
- (12) Partial lump-sum option.
- (a) No survivor rights. A member retiring on or before January 1, 2009, may elect to receive a one-time lump-sum payment equal to twelve (12), twenty-four (24), or thirty-six (36) monthly retirement allowances payable under the applicable retirement formula for the system and receive a reduced monthly retirement allowance payable for his or her lifetime. The lump-sum payment shall be paid in the month the first monthly retirement allowance is payable.
- (b) Survivor rights. A member retiring on or before January 1, 2009, may elect to receive a one-time lump-sum payment equal to twelve (12), twenty-four (24), or thirty-six (36) monthly retirement allowances payable under subsection (2) of this section and receive a reduced monthly retirement allowance payable for his or her lifetime. The lump-sum payment shall be paid in the month the first monthly retirement allowance is payable. The reduced retirement allowance shall be continued after the member's death to his beneficiary during the lifetime of the person.
- (13) The other provisions of this section notwithstanding, the beneficiary of a retired member of the General Assembly shall, after the member's death, receive sixty-six and two-thirds percent (66-2/3%) of the member's retirement allowance during his or her lifetime if the member of the General Assembly ***began participating in the system prior to January 1, 2014, and*** has elected this option and has made contributions in accordance with subsection (14) of this section and of KRS 61.560. The retirement allowance of the retired member of the General Assembly shall not be actuarially reduced to provide for this survivor benefit.
- (14) A member of the General Assembly **who began participating in the system prior to January 1, 2014**, who wishes to obtain the survivorship option specified in subsection (13) of this section shall so notify the Kentucky retirement systems:
- (a) Within thirty (30) days after first becoming a member of the General Assembly if he is not a member of the General Assembly on July 15, 1980; or
- (b) Within thirty (30) days after July 15, 1980, if he is a member of the General Assembly on July 15, 1980.
- (15) The system shall forward to members of the General Assembly a form on which a member **who began participating in the system prior to January 1, 2014**, may elect the option provided for in subsections (13) and (14) of this section.
- (16) The options described in subsections (2), (3), (4), (8)(b), (10), (12)(b), and (13) of this section shall be extended to the member only if the designated beneficiary is a person.

➔Section 64. KRS 61.640 is amended to read as follows:

- (1) If a member dies prior to the first day of the month in which the member would have received his or her first retirement allowance, the member's beneficiary shall be eligible for the benefits provided by this section if the member had on file a written designation of a beneficiary with the retirement office as provided by KRS 61.542 and the member met the following conditions at the date of his or her death:
- (a) The member was eligible to retire under KRS 61.559(2) or (3) ***or subsection (6)(a) or (b) of Section 9 of this Act;***
- (b) The member was in active employment or on authorized leave of absence with five (5) or more years of service credit and died prior to his or her normal retirement date or was normal retirement age or older and had at least four (4) years of service credit; or
- (c) The member was not in active employment or on authorized leave of absence with twelve (12) or more years of service credit and died prior to his or her normal retirement date.
- (2) If the beneficiary eligible for benefits as provided in subsection (1) of this section is a single person, then the beneficiary may elect to receive:

- (a) A monthly benefit payable for the life of the beneficiary that is equal to the benefit that would have been paid had the member retired immediately prior to his or her date of death and elected to receive benefits payable under the survivorship one hundred percent (100%) option as provided in KRS 61.635(2);
 - (b) A monthly benefit payable for the life of the beneficiary under the beneficiary Social Security adjustment option as provided in KRS 61.635(9) that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection;
 - (c) A monthly benefit payable for a period of sixty (60) months that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection;
 - (d) A monthly benefit payable for a period of one hundred twenty (120) months that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection;
 - (e) *If the member began participating in the system prior to January 1, 2014*, a monthly benefit payable for a period of one hundred twenty (120) months that is equivalent to the benefit the member would have been entitled to receive based on his or her years of service and final compensation at the date of his or her death reduced by the survivorship fifty percent (50%) factor as provided for in KRS 61.635(4), then reduced by fifty percent (50%), and that is the actuarial equivalent to the amount computed under paragraph (a) of this subsection; or
 - (f) The higher of a refund of *the member's* accumulated *account balance* ~~contributions and interest~~ as described in KRS 61.625(1) or one (1) time lump-sum payment which shall be the actuarial equivalent of the amount payable under paragraph (a) of this subsection for a period of sixty (60) months.
- (3) If the beneficiary eligible for benefits as provided by subsection (1) of this section are multiple beneficiaries or a trust, then the multiple beneficiaries by consensus or the trustee may elect to receive the actuarial equivalent amounts payable under subsection (2)(c), (d), (e), or (f) of this section using the assumption that the beneficiary's age is the same as the member's age.
- (4) If the beneficiary eligible for benefits as provided in subsection (1) of this section is the member's estate, then the beneficiary shall receive the higher of a refund of *the member's* accumulated *account balance* ~~contributions and interest~~ as described in KRS 61.625(1) or the one (1) time lump-sum payment payable under subsection (2)(f) of this section, using the assumption that the beneficiary's age is the same as the member's age.
- (5) Payments of taxable distributions made pursuant to this section shall be subject to state and federal income tax as appropriate.

➔Section 65. KRS 61.645 is amended to read as follows:

- (1) The County Employees Retirement System, Kentucky Employees Retirement System, and State Police Retirement System shall be administered by the board of trustees of the Kentucky Retirement Systems composed of *thirteen (13)* ~~nine (9)~~ members, who shall be selected as follows:
- (a) The secretary of the Personnel Cabinet shall serve as trustee for as long as he occupies the position of secretary under KRS 18A.015, except as provided under subsections (5) and (6) of this section;
 - (b) *Three (3)* ~~Two (2)~~ trustees, who shall be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System;
 - (c) One (1) trustee, who shall be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;
 - (d) Two (2) trustees, who shall be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System; and
 - (e) *Six (6)* ~~Three (3)~~ trustees, appointed by the Governor of the Commonwealth. Of the *six (6)* ~~three (3)~~ trustees appointed by the Governor:
 1. One (1) trustee shall be knowledgeable about the impact of pension requirements on local governments;
 2. *One (1) trustee shall be appointed from a list of three (3) applicants submitted by the Kentucky League of Cities;*

- 3 *One (1) trustee shall be appointed from a list of three (3) applicants submitted by the Kentucky Association of Counties;*
4. *One (1) trustee shall be appointed from a list of three (3) applicants submitted by the Kentucky School Boards Association; and*
5. ~~2.~~ Two (2) trustees shall have investment experience. For purposes of this subparagraph, a trustee with "investment experience" means an individual who does not have a conflict of interest, as provided by KRS 61.655, and who has at least ten (10) years of experience in one (1) of the following areas of expertise:
- a. A portfolio manager acting in a fiduciary capacity;
 - b. A professional securities analyst or investment consultant;
 - c. A current or retired employee or principal of a trust institution, investment or finance organization, or endowment fund acting in an investment-related capacity;
 - d. A chartered financial analyst in good standing as determined by the CFA Institute;
 - e. A university professor, teaching economics or investment-related studies; or
 - f. Any other professional with exceptional experience in the field of public or private finances.
- (2) The board is hereby granted the powers and privileges of a corporation, including but not limited to the following powers:
- (a) To sue and be sued in its corporate name;
 - (b) To make bylaws not inconsistent with the law;
 - (c) To conduct the business and promote the purposes for which it was formed;
 - (d) To contract for investment counseling, actuarial, auditing, medical, and other professional or technical services as required to carry out the obligations of the board without limitation, notwithstanding the provisions of KRS Chapters 45, 45A, 56, and 57;
 - (e) To purchase fiduciary liability insurance;
 - (f) To acquire, hold, sell, dispose of, pledge, lease, or mortgage, the goods or property necessary to exercise the board's powers and perform the board's duties without limitation, notwithstanding the limitations of KRS Chapters 45, 45A, and 56; and
 - (g) The board shall reimburse any trustee, officer, or employee for any legal expense resulting from a civil action arising out of the performance of his official duties.
- (3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section. An elected trustee or a trustee appointed by the Governor under subsection (1)(e) of this section, shall not serve more than three (3) consecutive four (4) year terms. An elected trustee or a trustee appointed by the Governor under subsection (1)(e) of this section, who has served three (3) consecutive terms may be elected or appointed again after an absence of four (4) years from the board.
- (b) The term limits established by paragraph (a) of this subsection shall apply to trustees serving on or after July 1, 2012, and all terms of office served prior to July 1, 2012, shall be used to determine if the trustee has exceeded the term limits provided by paragraph (a) of this subsection.
- (4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board may nominate, not less than six (6) months before a term of office of a trustee is due to expire, three (3) constitutionally eligible individuals.
- (b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the executive director, not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, last four digits of the Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by the retirement system members.

- (c) Within four (4) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the executive director shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes.
 - (d) The ballots shall be distributed to the eligible voters by mail to their last known residence address.
 - (e) The ballots shall be addressed to the Kentucky Retirement Systems in care of a predetermined box number at a United States Post Office located within Kentucky. Access to this post office box shall be limited to the board's contracted auditing firm. The individual receiving a plurality of votes shall be declared elected.
 - (f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall sign and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot.
 - (g) The board's contracted auditing firm shall report in writing the outcome to the chair of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.
 - (h) For purposes of this subsection, an eligible voter shall be a person who was a member of the retirement system on December 31 of the year preceding the election year.
 - (i) Each individual who submits a request to be nominated by the board under paragraph (a) of this subsection and each individual who is nominated by the membership under paragraph (b) of this subsection shall:
 - 1. Complete an application developed by the retirement systems which shall include but not be limited to a disclosure of any prior felonies and any conflicts of interest that would hinder the individual's ability to serve on the board;
 - 2. Submit a resume detailing the individual's education and employment history and a cover letter detailing the member's qualifications for serving as trustee to the board; and
 - 3. Authorize the systems to have a criminal background check performed. The criminal background check shall be performed by the Department of Kentucky State Police.
- (5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and if the secretary of the Personnel Cabinet resigns his position as trustee, it shall be filled by appointment made by the Governor; however, any vacancy shall be filled only for the duration of the unexpired term.
- (6) (a) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee shall serve in more than one (1) position as trustee on the board; and if a trustee holds more than one (1) position as trustee on the board, he shall resign a position.
 - (b) A trustee shall be removed from office upon conviction of a felony or for a finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court of competent jurisdiction.
 - (c) A current or former employee of Kentucky Retirement Systems shall not be eligible to serve as a member of the board.
- (7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of eighty dollars (\$80) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards.
- (8) (a) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chair or the executive director.
 - (b) The board shall elect a chair and a vice chair. The chair shall not serve more than four (4) consecutive years as chair or vice-chair of the board. The vice-chair shall not serve more than four (4) consecutive years as chair or vice-chair of the board. A trustee who has served four (4) consecutive years as chair or vice-chair of the board may be elected chair or vice-chair of the board after an absence of two (2) years from the positions.

- (c) A majority of the trustees shall constitute a quorum and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.
- (9)
- (a) The board of trustees shall appoint or contract for the services of an executive director and fix the compensation and other terms of employment for this position without limitation of the provisions of KRS Chapters 18A and 45A and KRS 64.640. The executive director shall be the chief administrative officer of the board.
 - (b) The board of trustees shall authorize the executive director to appoint the employees deemed necessary to transact the business of the system. For an appointee deemed to be in a policy-making position, the board shall determine the compensation and other terms of employment for the policy-making position without limitation of the provisions of KRS Chapter 18A. Anything in the Kentucky Revised Statutes to the contrary notwithstanding, the power over and control of determining and maintaining an adequate complement of employees shall be under the exclusive jurisdiction of the board of trustees.
 - (c) Effective December 1, 2002, all employees of the Kentucky Retirement Systems shall be transferred to a personnel system adopted by the board. Employees of Kentucky Retirement Systems covered by the personnel system adopted by the board shall be:
 1. Provided the same health insurance coverage as all other state government employees as provided in KRS 18A.225;
 2. Eligible to participate in the deferred compensation system provided for all state government employees as provided in KRS 18A.250 to 18A.265;
 3. Provided the same life insurance coverage provided all state employees as provided in KRS 18A.205 to 18A.215;
 4. Reimbursed for all reasonable and necessary travel expenses and disbursements incurred or made in the performance of official duties in accordance with KRS Chapter 45;
 5. Ensured equal employment opportunity regardless of race, color, gender, religion, national origin, disability, sexual orientation, or age;
 6. Given those holidays and rights granted to state employees as provided in KRS 18A.190;
 7. Paid a salary not less than the salary paid as of the date of transfer to the personnel system, unless voluntarily demoted or involuntarily demoted for cause;
 8. Credited with all accumulated sick leave, compensatory time, and annual leave accumulated in accordance with KRS Chapter 18A, and for an employee leaving service, the system shall attest to the employee's accumulated sick leave, compensatory time, and annual leave which shall be credited with other state and county employers to the extent provided for by statute or policy. The Kentucky Retirement Systems may, at the discretion of the board, accept from other state and county employers all accumulated sick leave, compensatory time, and annual leave for an employee leaving a state or county employer and accepting employment with the Kentucky Retirement Systems. The executive branch shall accept from the Kentucky Retirement Systems all accumulated sick leave, compensatory time, and annual leave for an employee leaving the Kentucky Retirement Systems and accepting employment with the executive branch. The Kentucky Retirement Systems shall accept from the executive branch all accumulated sick leave, compensatory time, and annual leave for an employee leaving the executive branch and accepting employment with the Kentucky Retirement Systems;
 9. Classified with status upon transfer to the personnel system on December 1, 2002, if the employee was classified with status as a merit employee under KRS Chapter 18A. Any employee of the Kentucky Retirement Systems transferred on December 1, 2002, during the probationary period before earning classified status as a merit system employee under KRS Chapter 18A shall transfer all accrued probationary time and the time shall be credited to the probationary time required to attain classified status in the personnel system;
 10. Ensured a grievance appeal procedure and the employee's right to have a representative present at each step of the grievance procedure; and
 11. Ensured of the right of appeal in a manner consistent with the provisions of KRS 18A.095 to the Kentucky Personnel Board and employees classified with status in the personnel system shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.

- (d) The board shall adopt by administrative regulation a fair, equitable, and comprehensive personnel policy with a minimum of the following provisions for the personnel system:
 - 1. A code of conduct including provisions describing performance of duties, abuse of position, conflicts of interest, and outside employment;
 - 2. An appointments plan including provisions describing the appointing authority, appointments, equal employment policy, sexual harassment policy, and drug-free workplace policy;
 - 3. A classification plan including provisions describing class specifications, position actions, and employee actions;
 - 4. A compensation plan based on qualifications, experience, and responsibilities and including provisions which describe a salary schedule, salary adjustments, salary advancements, and an employee suggestion program;
 - 5. Separations, disciplinary actions, and appeal policies including provisions describing classified with status, exemptions from classified with status, lay-offs, abolishment of position, dismissals and notification of dismissal, dismissals during probationary period, disciplinary actions, right of appeal, grievance and appeal procedures, and an employee grievance and appeal committee;
 - 6. Service and benefits regulations including provisions describing hours of work, fringe benefits, workers' compensation, payroll deductions, holidays, inclement weather days, compensatory time, retirement, resignations, employee evaluations, and political activities; and
 - 7. Leave policies including provisions describing special leave, annual leave, court leave and jury duty, military leave, voting leave, educational leave, sick leave, family medical leave, leave without pay, absence without leave, and blood donation leave.
 - (e) The board shall require the executive director and the employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62.
 - (f) The board shall establish a system of accounting.
 - (g) The board shall do all things, take all actions, and promulgate all administrative regulations, not inconsistent with the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852, necessary or proper in order to carry out the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852 conform with federal statute or regulation and meet the qualification requirements under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance. Provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852 which conflict with federal statute or regulation or qualification under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance shall not be available. The board shall have the authority to promulgate administrative regulations to conform with federal statute and regulation and to meet the qualification requirements under 26 U.S.C. sec. 401(a), including an administrative regulation to comply with 26 U.S.C. sec. 401(a)(9). The board shall have the authority to promulgate an administrative regulation to comply with any consent decrees entered into by the board in Civil Action No. 3:99CV500(C) in order to bring the systems into compliance with the Age Discrimination in Employment Act, 29 U.S.C. Section 621, et seq., as amended.
- (10) All employees of the board shall serve during its will and pleasure. Notwithstanding any statute to the contrary, employees shall not be considered legislative agents under KRS 6.611.
 - (11) The Attorney General, or an assistant designated by him, may attend each meeting of the board and may receive the agenda, board minutes, and other information distributed to trustees of the board upon request. The Attorney General may act as legal adviser and attorney for the board, and the board may contract for legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.
 - (12) (a) The system shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. Except as provided by paragraph (b) of this subsection, the board may select an independent certified public accountant or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an

audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The system shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the office of the executive director of the Kentucky Retirement Systems and in other places as necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.

- (b) At least once every five (5) years, the Auditor of Public Accounts shall perform the audit described by this subsection, and the system shall reimburse the Auditor of Public Accounts for all costs of the audit. The Auditor of Public Accounts shall determine which fiscal year during the five (5) year period the audit prescribed by this paragraph will be completed.
- (13) All expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.
- (14) Any person adversely affected by a decision of the board, except as provided under subsection (16) of this section or KRS 61.665, involving KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within sixty (60) days of the board action.
- (15) (a) A trustee shall discharge his duties as a trustee, including his duties as a member of a committee:
- 1. In good faith;
 - 2. On an informed basis; and
 - 3. In a manner he honestly believes to be in the best interest of the Kentucky Retirement Systems.
- (b) A trustee discharges his duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.
- (c) In discharging his duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:
- 1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;
 - 2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or
 - 3. A committee of the board of trustees of which he is not a member if the trustee honestly believes the committee merits confidence.
- (d) A trustee shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by paragraph (c) of this subsection unwarranted.
- (e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:
- 1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and
 - 2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.
- (f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraph (e)1. and 2. of this subsection, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.
- (g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.

- (h) In discharging his or her administrative duties under this section, a trustee shall strive to administer the retirement system in an efficient and cost-effective manner for the taxpayers of the Commonwealth of Kentucky.
- (16) When an order by the system substantially impairs the benefits or rights of a member, retired member, or recipient, except action which relates to entitlement to disability benefits, **or when an employer disagrees with an order of the system as provided by Section 10 of this Act**, the affected member, retired member, ~~for~~ recipient, **or employer** may request a hearing to be held in accordance with KRS Chapter 13B. The board may establish an appeals committee whose members shall be appointed by the chair and who shall have authority to act upon the recommendations and reports of the hearing officer on behalf of the board. The member, retired member, ~~for~~ recipient, **or employer** aggrieved by a final order of the board following the hearing may appeal the decision to the Franklin Circuit Court, in accordance with KRS Chapter 13B.
- (17) The board shall give the Kentucky Education Support Personnel Association twenty-four (24) hours notice of the board meetings, to the extent possible.
- (18) The board shall establish a formal trustee education program for all trustees of the board. The program shall include but not be limited to the following:
- (a) A required orientation program for all new trustees elected or appointed to the board. The orientation program shall include training on:
1. Benefits and benefits administration;
 2. Investment concepts, policies, and current composition and administration of retirement systems investments;
 3. Laws, bylaws, and administrative regulations pertaining to the retirement systems and to fiduciaries; and
 4. Actuarial and financial concepts pertaining to the retirement systems.
- If a trustee fails to complete the orientation program within one (1) year from the beginning of his or her first term on the board, the retirement systems shall withhold payment of the per diem and travel expenses due to the board member under this section and KRS 16.640 and 78.780 until the trustee has completed the orientation program;
- (b) Annual required training for board members on the administration, benefits, financing, and investing of the retirement systems. If a trustee fails to complete the annual required training during the calendar or fiscal year, the retirement systems shall withhold payment of the per diem and travel expenses due to the board member under this section and KRS 16.640 and 78.780 until the board member has met the annual training requirements; and
- (c) The retirement systems shall incorporate by reference in an administrative regulation, pursuant to KRS 13A.2251, the trustee education program.
- (19) In order to improve public transparency regarding the administration of the systems, the board of trustees shall adopt a best practices model by posting the following information to the retirement systems' Web site and shall make available to the public:
- (a) Meeting notices and agendas for all meetings of the board. Notices and agendas shall be posted to the retirement systems' Web site at least seventy-two (72) hours in advance of the board or committee meetings, except in the case of special or emergency meetings as provided by KRS 61.823;
- (b) The Comprehensive Annual Financial Report with the information as follows:
1. A general overview and update on the retirement systems by the executive director;
 2. A listing of the board of trustees;
 3. A listing of key staff;
 4. An organizational chart;
 5. Financial information, including a statement of plan net assets, a statement of changes in plan net assets, an actuarial value of assets, a schedule of investments, a statement of funded status and funding progress, and other supporting data;

6. Investment information, including a general overview, a list of the retirement system's professional consultants, a total return on retirement systems investments over a historical period, an investment summary, contracted investment management expenses, transaction commissions, and a schedule of investments;
 7. The annual actuarial valuation report on the pension benefit and the medical insurance benefit; and
 8. A general statistical section, including information on contributions, benefit payouts, and retirement systems' demographic data;
- (c) All external audits;
 - (d) All board minutes or other materials that require adoption or ratification by the board of trustees. The items listed in this paragraph shall be posted within seventy-two (72) hours of adoption or ratification of the board;
 - (e) All bylaws, policies, or procedures adopted or ratified by the board of trustees;
 - (f) The retirement systems' summary plan description;
 - (g) A document containing an unofficial copy of the statutes governing the systems administered by Kentucky Retirement Systems;
 - (h) A listing of the members of the board of trustees and membership on each committee established by the board, including any investment committees;
 - (i) All investment holdings and commissions for each fund administered by the board. The board shall update the list of holdings and commissions on a quarterly basis for fiscal years beginning on or after July 1, 2008;
 - (j) An update of investment returns, asset allocations, and the performance of the funds against benchmarks adopted by the board for each fund and for each asset class administered by the board. The update shall be posted on a quarterly basis for fiscal years beginning on or after July 1, 2008;~~and~~
 - (k) A searchable database of the systems' expenditures and a listing of each individual employed by the systems along with the employee's salary or wages. In lieu of posting the information required by this paragraph to the systems' Web site, the systems may provide the information through a Web site established by the executive branch to inform the public about executive branch agency expenditures and public employee salaries and wages. No provision of this paragraph shall require the systems to disclose confidential member information protected under KRS 61.661; **and**
 - (l) ***Information regarding the systems' financial and actuarial condition that is easily understood by the members, retired members, and the public.***
- (20) Notwithstanding the requirements of subsection (19) of this section, the retirement systems shall not be required to furnish information that is protected under KRS 61.661, exempt under KRS 61.878, or that, if disclosed, would compromise the retirement systems' ability to competitively invest in real estate or other asset classes, or to competitively negotiate vendor fees.
- (21) Notwithstanding any other provision of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852 to the contrary, no funds of the systems administered by Kentucky Retirement Systems, including fees and commissions paid to an investment manager, private fund, or company issuing securities, who manages systems assets, shall be used to pay fees and commissions to unregulated placement agents. For purposes of this subsection, "unregulated placement agent" means an individual or firm who solicits investments on behalf of an investment manager, private fund, or company issuing securities, who is prohibited by federal securities laws and regulations promulgated thereunder from receiving compensation for soliciting a government agency.
- ➔Section 66. KRS 61.650 is amended to read as follows:
- (1) (a) The board shall be the trustee of the several funds created by KRS 16.510, 61.515, 61.701, and 78.520, notwithstanding the provisions of any other statute to the contrary, and shall have exclusive power to invest and reinvest such funds in accordance with federal law.
 - (b) 1. The board shall establish an investment committee whose membership shall be composed of the following:
 - a. The two (2) trustees appointed by the Governor pursuant to KRS 61.645(1)(e)5.~~2~~; and

- b. Three (3) trustees appointed by the board chair.
- 2. The investment committee shall have authority to implement the investment policies adopted by the board and act on behalf of the board on all investment-related matters and to acquire, sell, safeguard, monitor, and manage the assets and securities of the several funds.
- (c) A trustee, officer, employee, or other fiduciary shall discharge duties with respect to the retirement system:
 - 1. Solely in the interest of the members and beneficiaries;
 - 2. For the exclusive purpose of providing benefits to members and beneficiaries and paying reasonable expenses of administering the system;
 - 3. With the care, skill, and caution under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose;
 - 4. Impartially, taking into account any differing interests of members and beneficiaries;
 - 5. Incurring any costs that are appropriate and reasonable; and
 - 6. In accordance with a good-faith interpretation of the law governing the retirement system.
- (2) All securities acquired under authority of KRS 61.510 to 61.705 shall be registered in the name "Kentucky Retirement Systems" or nominee name as provided by KRS 286.3-225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished pursuant to written policies adopted by the board.
- (3) The board, in keeping with its responsibility as trustee and wherever consistent with its fiduciary responsibilities, shall give priority to the investment of funds in obligation calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.
- (4) The contents of real estate appraisals, engineering or feasibility estimates, and evaluations made by or for the system relative to the acquisition or disposition of property, until such time as all of the property has been acquired or sold, shall be excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction.
- (5) Based upon market value at the time of purchase, the board shall limit the amount of assets managed by any one (1) active or passive investment manager to fifteen percent (15%) of the assets in the pension and insurance funds.

➔Section 67. KRS 61.680 is amended to read as follows:

- (1) Prior to August 1, 1982, every employee shall be deemed to consent and agree to any deduction from his compensation required by KRS 6.500 to 6.535, 16.505 to 16.652, 61.510 to 61.692, 78.510 to 78.852, and to all other provisions thereof. Thereafter, employee contributions shall be picked up by the employer pursuant to KRS 61.560(4).
- (2) (a) Notwithstanding any other provisions of KRS 6.500 to 6.535, 16.505 to 16.652, 61.510 to 61.692, 78.510 to 78.852 and 161.220 to 161.714, upon death, disability, or service retirement, a member's accounts under the Legislators' Retirement Plan, State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and Teachers' Retirement System, except for service prohibited by KRS 161.623(2), shall be consolidated for the purpose of determining eligibility and amount of benefits, ***including those members who participate in the hybrid cash balance plan within the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System on or after January 1, 2014.*** Vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education and accepted by the Kentucky Employees Retirement System or the County Employees Retirement System, may be used to determine eligibility for twenty-seven (27) year retirement for an employee who begins participating before September 1, 2008, but not the amount of benefits. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation, excluding compensation earned under KRS 161.155(10), shall be determined as if all service were in one (1) system. If the member has prior service in more than one (1) system, he shall obtain at least twelve (12) months' current service in each system in which he has prior service in order to validate the prior service in each system for purposes of

- determining consolidated benefits under this section. Upon the determination of benefits, each system shall pay the applicable percentage of total benefits.
- (b) The provisions of paragraph (a) of this subsection shall be waived if the member notifies the system of his desire to maintain separate retirement accounts in the State Police Retirement System, Kentucky Employees Retirement System, or County Employees Retirement System.
 - (c) If the member has not contributed at least one (1) year in a system in which he has prior service, his current service in the system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.
- (3) A member with service credit in the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System who becomes the holder of an office entitling him to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, but who does not elect within thirty (30) days after taking office in such service to participate in the plan, in accordance with KRS 6.505 or 21.360, shall be deemed to have elected to retain membership in the system in which he is a member, either the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System. In that event, the agency employing the member shall withhold employee contributions, or picked-up employee contributions after August 2, 1982, make employer contributions and remit these contributions to the system in which the member retained his membership. Any person entitled to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, who does not elect within thirty (30) days after taking office to participate in the plan, in accordance with KRS 6.505 or 21.360, and who at the time of taking office is not a contributing member of, or does not have service credit in, any of the retirement systems mentioned in this section, or the Teachers' Retirement System, shall participate in the Kentucky Employees Retirement System. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is employed in a nonelected position by an agency participating in the Kentucky Retirement Systems or Kentucky Teachers' Retirement System shall be deemed to have elected membership in the system in which the employer of the nonelected position participates. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is not employed in a nonelected position by an agency participating in the Kentucky Retirement Systems shall be deemed to have elected membership in the Kentucky Employees Retirement System.
- (4) (a) Prior to July 1, 1976, a person entering the service of an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System with service credit in the Teachers' Retirement System and who desires to retain membership in the Teachers' Retirement System, and who is permitted by that system to continue, shall be exempt from participating in the Kentucky Employees Retirement System or the County Employees Retirement System.
- (b) Any person who has elected to retain membership in the Teachers' Retirement System as provided in paragraph (a) of this subsection may cancel his election and participate in the system under which his position would normally participate, if he elects to cancel his option prior to January 1, 1977.
- (c) Any member of the General Assembly who upon election is a contributing member of the Teachers' Retirement System and who does not elect within thirty (30) days after taking office to participate in the Legislators' Retirement Plan, in accordance with KRS 6.505, shall during his term of office participate in the Kentucky Employees Retirement System unless an election to retain membership in the Teachers' Retirement System is filed in writing within ninety (90) days after his term of office begins. No contributions may be made to the Teachers' Retirement System for the same period of service under the Legislators' Retirement Plan or the Kentucky Employees Retirement System as a member of the General Assembly, but contributions made to the Teachers' Retirement System while a member of the General Assembly shall be transferred to the Legislators' Retirement Plan, as provided for in KRS 6.535, when the member elects to join the Legislators' Retirement Plan, and service credit in the Legislators' Retirement Plan shall be granted as provided for in KRS 6.505(5).
- (5) Effective July 1, 1974, any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in a position covered by one (1) of these retirement systems and his employee contributions, service credit and employer contributions made on his behalf are being transferred to the other retirement system shall contribute to the system in which his employer participates, or after August 1, 1982, the employer shall pick up the employee contributions, and no further contributions or service credit shall be transferred to the system in which he elected to retain membership, as subsection (2) of this section eliminates the necessity of the transfers.

- (6) Any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in more than one (1) position covered by the same retirement system, shall have his wages and contributions consolidated and his retirement account administered as a single account. If part-time positions are involved, an accumulation of all hours worked within the same retirement system shall be used to determine eligibility under KRS 61.510(21).
- (7) Notwithstanding the provisions of subsection (2) of this section, a person who does not have the amount of service required for service retirement in the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System, but who is a member of one (1) of the systems or is a former member of one (1) or more of the systems with valid service credit therein, shall become eligible for service retirement benefits attributable to the amount of his actual service credit in each system in which he has service credit when his combined service credit in all the systems, plus any service credit he has in the Judicial Retirement Plan, is equal to that required for service retirement in each respective system. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, except that total service in all systems, unless prohibited by KRS 161.623(2), shall be used to determine the reduction for early retirement, if any. Except as provided in KRS 21.360, the final compensation shall be determined by using the creditable compensation reported to the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System and only as much of the compensation earned in the Judicial Retirement Plan as is needed to satisfy the final compensation requirement applicable in the respective retirement systems.
- (8) Each retirement system from which the member retires shall pay a retirement allowance upon receipt of required forms and documents, except that no retirement system shall pay a retirement allowance or annuity until all forms and documents are filed at all retirement systems in compliance with each system's requirements.

➔Section 68. KRS 61.690 is amended to read as follows:

- (1) Except as otherwise provided by this section and KRS 61.705(4), all retirement allowances and other benefits accrued or accruing to any person under the provisions of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, and the accumulated **account balance**~~[contributions]~~ and cash securities in the funds created under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, are hereby exempt from any state, county, or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process, and shall not be assigned.
- (2) Notwithstanding the provisions of subsection (1) of this section, retirement benefits accrued or accruing to any person under the provisions of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852 on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.
- (3) Qualified domestic relations orders issued by a court or administrative agency shall be honored by the retirement system if:
 - (a) The benefits payable pursuant to the order meet the requirements of a qualified domestic relations order as provided by 26 U.S.C. sec. 414(p). The retirement system shall follow applicable provisions of 26 U.S.C. sec. 414(p) in administering qualified domestic relations orders;
 - (b) The order meets the requirements established by the retirement system and by subsections (3) to (11) of this section. The board of trustees of the retirement system shall establish the requirements, procedures, and forms necessary for the administration of qualified domestic relations orders by promulgation of administrative regulations in accordance with KRS Chapter 13A; and
 - (c) The order is on the form established by the retirement system pursuant to the retirement system's authority provided under paragraph (3)(b) of this subsection.
- (4) A qualified domestic relations order shall not:
 - (a) Require the retirement system to take any action not authorized under state or federal law;
 - (b) Require the retirement system to provide any benefit, allowance, or other payment not authorized under state or federal law;
 - (c) Grant or be construed to grant the alternate payee any separate right, title, or interest in or to any retirement benefit other than to receive payments from the participant's account in accordance with the

administrative regulations promulgated by the retirement system and as provided by subsections (3) to (11) of this section; or

- (d) Grant any separate interest to any person other than the participant.
- (5) Any qualified domestic relations order submitted to the retirement system shall specify the dollar amount or percentage amount of the participant's benefit to be paid to the alternate payee. In calculating the amount to be paid to the alternate payee, the court or administrative agency that is responsible for issuing the order shall follow the requirements set forth in the administrative regulations promulgated by the board of trustees. Notwithstanding any other statute to the contrary, the board shall not be required to honor a qualified domestic relations order that does not follow the requirements set forth in the administrative regulations promulgated by the board of trustees.
- (6) If the qualified domestic relations order meets the requirements established by the system and by subsections (3) to (11) of this section, payments to the alternate payee shall begin under the following conditions:
- (a) If the participant is retired and is receiving a monthly **retirement allowance**~~[benefit]~~, the month following the date the retirement system receives a qualified domestic relations order that complies with the administrative regulations promulgated by the retirement system and subsections (3) to (11) of this section; or
- (b) If the participant is not retired, the month of the participant's effective retirement date in which the first retirement allowance is payable to the participant or the month in which the participant receives a refund of **his or her accumulated account balance**~~[contributions]~~ as provided by KRS 61.625.
- (7) An alternate payee's benefits and rights under a qualified domestic relations order shall terminate upon the earlier of:
- (a) The death of the participant;
- (b) The death of the alternate payee; or
- (c) The termination of the participant's benefits under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852.
- (8) An alternate payee shall not receive a monthly payment under a qualified domestic relations order if the participant is not receiving a monthly retirement allowance.
- (9) The cost of living adjustment provided to the participant pursuant to KRS 61.691 shall be divided between the participant and alternate payee in a qualified domestic relations order as follows:
- (a) If the order specifies the alternate payee is to receive a percentage of the participant's benefit, then the cost of living adjustment shall be divided between the participant and the alternate payee based upon the percentage of the total benefit each is receiving upon the participant's retirement or upon the date the order is approved by the retirement system, whichever is later; or
- (b) If the order specifies that the alternate payee is to receive a set dollar amount of the participant's benefit, then the order shall specify that:
1. The cost of living adjustment shall be divided between the participant and the alternate payee based upon the percentage of the total benefit each is receiving upon the participant's retirement or upon the date the order is approved by the retirement system, whichever is later; or
 2. The alternate payee shall receive no cost of living adjustment.
- If the order does not specify the division of the cost of living adjustment as required by this paragraph, then no cost of living adjustment shall be payable to the alternate payee. If no cost of living adjustment is provided to the alternate payee, then the participant shall receive the full cost of living adjustment he or she would have received if the order had not been applied to the participant's account.
- (10) Except in cases involving child support payments, the retirement system may charge reasonable and necessary fees and expenses to the recipient and the alternate payee of a qualified domestic relations order for the administration of the qualified domestic relations order by the retirement system. All fees and expenses shall be established by administrative regulations promulgated by the board of trustees of the retirement system. The qualified domestic relations order shall specify whether the fees and expenses provided by this subsection shall be paid:
- (a) Solely by the participant;

- (b) Solely by the alternate payee; or
 - (c) Equally shared by the participant and alternate payee.
- (11) The retirement system shall honor a qualified domestic relations order issued prior to July 15, 2010, if:
- (a) The order was on file and approved by the retirement system prior to July 15, 2010. All benefits, including cost of living adjustments payable to the alternate payee, for orders that meet the requirements of this paragraph shall not be eliminated or reduced as a result of the provisions of subsections (3) to (10) of this section and KRS 61.510(27) and 78.510(26); or
 - (b) The order or an amended version of the order meets the requirements established by this section and the administrative regulations promulgated by the retirement system. The order shall not apply to benefit payments issued by the retirement system prior to the date the order was approved by the retirement system.

➔Section 69. KRS 61.691 is amended to read as follows:

- (1) Effective August 1, 1996, to July 1, 2008, a recipient of a retirement allowance under KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852 shall have his retirement allowance increased on July 1 of each year by the percentage increase in the annual average of the consumer price index for all urban consumers for the most recent calendar year as published by the federal Bureau of Labor Statistics, not to exceed five percent (5%). In determining the annual employer contribution rate, only the cost of increases granted as of the most recent valuation date shall be recognized. The benefits of this subsection as provided on August 1, 1996, to July 1, 2008, shall not be considered as benefits protected by the inviolable contract provisions of KRS 16.652, 61.692, and 78.852. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in their judgment the welfare of the Commonwealth so demands.
- (2) (a) Effective July 1, 2009, and on July 1 of each year thereafter, a recipient of a retirement allowance under KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852 shall have his or her retirement allowance increased by one and one-half percent (1.5%), ~~if:~~~~provided~~
- 1. *The funding level of the system is greater than one hundred percent (100%) and subsequent legislation authorizes the use of any surplus actuarial assets to provide an increase in retirement allowances described by this subsection for the system which has the surplus actuarial assets; or*
 - 2. *The General Assembly appropriates sufficient funds or directs payment of funds to fully prefund the increase described by this subsection in the year the increase is provided.*
- (b) *The board of trustees of the Kentucky Retirement Systems shall, at least thirty (30) days prior to the beginning of regular sessions of the General Assembly held in even-numbered years, advise the General Assembly of the following:*
- 1. *Which systems have a funding level greater than one hundred percent (100%) and can support an increase in recipients' retirement allowances as provided by paragraph (a) of this subsection over the next budget biennium without reducing the funding level of the system below one hundred percent (100%); and*
 - 2. *If no surplus actuarial assets are available, the level of funds needed to fully prefund an increase for system recipients over the next budget biennium if a one and one-half percent (1.5%) increase is provided annually over the biennium.*
- (c) *For purposes of this subsection, "funding level" means the actuarial value of assets divided by the actuarially accrued liability expressed as a percentage that is determined and reported by the system's actuary in the system's actuarial valuation.*
- (d) *The full increase described by this subsection shall only be provided if* the recipient has been receiving a benefit for at least twelve (12) months prior to the effective date of the increase. If the recipient has been receiving a benefit for less than twelve (12) months prior to the effective date of the increase provided by this subsection, the increase shall be reduced on a pro rata basis for each month the recipient has not been receiving benefits in the twelve (12) months preceding the effective date of the increase.
- (e) In determining the annual employer contribution rate, only the cost of increases granted as of the most recent valuation date shall be recognized.

- (f) The benefits of this subsection as provided on July 1, 2009, and thereafter shall not be considered as benefits protected by the inviolable contract provisions of KRS 16.652, 61.692, and 78.852. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if, in its judgment, the welfare of the Commonwealth so demands.
- (3) A reemployed retired member whose payments are suspended as provided under KRS 61.637 shall be eligible for an increase in his suspended retirement allowance as provided under this section, computed as if he were receiving the retirement allowance at the time the increase under this section is effective.
- (4) In addition to the increase to a recipient's retirement allowance as provided by subsection (2) of this section, The General Assembly may, by subsequent legislation, provide supplemental increases to a recipient's retirement allowance to help adjust for actual changes in the recipient's cost of living if the General Assembly appropriates sufficient funds to fully prefund the benefit in the year the increase is provided.

➔Section 70. KRS 61.692 is amended to read as follows:

- (1) *For members who begin participating in the Kentucky Employees Retirement System prior to January 1, 2014, it is hereby declared that in consideration of the contributions by the members and in further consideration of benefits received by the state from the member's employment, KRS 61.510 to 61.705 shall, except as provided in KRS 6.696 effective September 16, 1993, constitute an inviolable contract of the Commonwealth, and the benefits provided therein shall, except as provided in KRS 6.696, not be subject to reduction or impairment by alteration, amendment, or repeal.*
- (2) (a) *For members who begin participating in the Kentucky Employees Retirement System on or after January 1, 2014, the General Assembly reserves the right to amend, suspend, or reduce the benefits and rights provided under KRS 61.510 to 61.705 if, in its judgment, the welfare of the Commonwealth so demands, except that the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall not be affected.*
- (b) *For purposes of this subsection, the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall be limited to the accumulated account balance the member has accrued at the time of amendment, suspension, or reduction.*
- (c) *The provisions of this subsection shall not be construed to limit the General Assembly's authority to change any other benefit or right specified by KRS 61.510 to 61.705, except the benefits specified by paragraph (b) of this subsection, for members who begin participating in the Kentucky Employees Retirement System on or after January 1, 2014.*
- (3) *The provisions of this section shall not be construed to limit the General Assembly's authority to amend, reduce, or suspend the benefits and rights of members of the Kentucky Employees Retirement System as provided by KRS 61.510 to 61.705 that the General Assembly had the authority to amend, reduce, or suspend, prior to the effective date of this Act.*

➔Section 71. KRS 61.702 is amended to read as follows:

- (1) (a) 1. The board of trustees of Kentucky Retirement Systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System, except as provided in subsection (8) of this section. The board shall also arrange to provide health care coverage through an insurer licensed pursuant to Subtitle 38 of KRS Chapter 304 and offering a managed care plan as defined in KRS 304.17A-500, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section.
2. Any person who chooses coverage under a *hospital and medical insurance plan*~~{managed care}~~ plan shall pay, by payroll deduction from the retirement allowance or by another method, the difference in premium between the cost of the *hospital and medical insurance*~~{managed care}~~ plan coverage and the benefits to which he would be entitled under this section.
3. For purposes of this section, "hospital and medical insurance plan" *may include, at the board's discretion, any one (1) or more of the following:* ~~{means}~~
- a. Any hospital and medical expense policy or certificate, provider-sponsored integrated health delivery network, self-insured medical plan, health maintenance organization contract, or other health benefit plan~~[-];~~

membership date prior to September 1, 2008, pursuant to KRS 61.552(1) or 61.552(23), then this paragraph shall not apply to the member and all contributions previously deducted in accordance with this paragraph shall be refunded to the member without interest. The contribution made pursuant to this paragraph shall not act as a reduction or offset to any other contribution required of a member or recipient under KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852.

5. The board of trustees, at its discretion, may direct that the contributions required by this paragraph be accounted for within accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 through the use of separate accounts.
- (3) (a) The premium required to provide hospital and medical benefits under this section shall be paid:
1. Wholly or partly from funds contributed by the recipient of a retirement allowance, by payroll deduction, or otherwise;
 2. Wholly or partly from funds contributed by the Kentucky Retirement Systems insurance trust fund;
 3. Wholly or partly from funds contributed to accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520;
 4. Wholly or partly from funds contributed by another state-administered retirement system under a reciprocal arrangement, except that any portion of the premium paid from the Kentucky Retirement Systems insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 under a reciprocal agreement shall not exceed the amount that would be payable under this section if all the member's service were in one (1) of the systems administered by the Kentucky Retirement Systems;
 5. Partly from subparagraphs 1. to 4. of this paragraph, except that any premium for hospital and medical insurance over the amount contributed by the Kentucky Retirement Systems insurance trust fund; accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520; or another state-administered retirement system under a reciprocal agreement shall be paid by the recipient by an automatic electronic transfer of funds. If the board provides for cross-referencing of insurance premiums, the employer's contribution for the working member or spouse shall be applied toward the premium, and the Kentucky Retirement Systems insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall pay the balance, not to exceed the monthly contribution; or
 6. In full from the Kentucky Retirement Systems insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 for all recipients of a retirement allowance from any of the three (3) retirement systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) and had two hundred and forty (240) months or more of service upon retirement. Should such recipient have less than two hundred forty (240) months of service but have at least one hundred eighty (180) months of service, seventy-five percent (75%) of such premium shall be paid from the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, provided such recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of such premium shall be paid from the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, provided such recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of such premium shall be paid from the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, provided such recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. Notwithstanding the foregoing provisions of this subsection, an employee participating in one (1) of the retirement systems administered by the Kentucky

Retirement Systems who becomes disabled in the line of duty as defined in KRS 16.505(19) or 61.621, shall have his premium paid in full as if he had two hundred forty (240) months or more of service. Further, an employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who is killed in the line of duty as defined in KRS 16.505(19) or 61.621, shall have the premium for the beneficiary, if the beneficiary is the member's spouse, and for each dependent child paid so long as they individually remain eligible for a monthly retirement benefit. "Months of service" as used in this section shall mean the total months of combined service used to determine disability benefits under any or all of the three (3) retirement systems, except service added to determine disability benefits shall not be counted as "months of service." For current and former employees of the Council on Postsecondary Education who were employed prior to January 1, 1993, and who earn at least fifteen (15) years of service credit in the Kentucky Employees Retirement System, "months of service" shall also include vested service in another retirement system other than the Kentucky Teachers' Retirement System sponsored by the Council on Postsecondary Education.

- (b) 1. For a member electing insurance coverage through the Kentucky Retirement Systems, "months of service" shall include, in addition to service as described in paragraph (a) of this subsection, service credit in one (1) of the other state-administered retirement plans.
 - 2. Effective August 1, 1998, the Kentucky Retirement Systems shall compute the member's combined service, including service credit in another state-administered retirement plan, and calculate the portion of the member's premium to be paid by the insurance trust fund accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, according to the criteria established in paragraph (a) of this subsection. Each state-administered retirement plan annually shall pay to the insurance trust fund the percentage of the system's cost of the retiree's monthly contribution for single coverage for hospital and medical insurance which shall be equal to the percentage of the member's number of months of service in the other state-administered retirement plan divided by his total combined service. The amounts paid by the other state-administered retirement plans and the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall not be more than one hundred percent (100%) of the monthly contribution adopted by the respective boards of trustees.
 - 3. A member may not elect coverage for hospital and medical benefits under this subsection through more than one (1) of the state-administered retirement plans.
 - 4. A state-administered retirement plan shall not pay any portion of a member's monthly contribution for medical insurance unless the member is a recipient or annuitant of the plan.
 - 5. The premium paid by the Kentucky Retirement Systems insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall not exceed one hundred percent (100%) of the monthly contribution rate toward hospital and medical insurance coverage approved by the board of trustees of the Kentucky Retirement Systems.
- (4) (a) Group rates under the hospital and medical insurance plan shall be made available to the spouse, each dependent child, and each disabled child, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the premium for the hospital and medical insurance for the spouse, each dependent child, and each disabled child, or beneficiary is paid by payroll deduction from the retirement allowance or by another method. For purposes of this subsection only, a child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits or meets the dependent disability standard established by the Department of Employee Insurance in the Personnel Cabinet.
 - (b) The other provisions of this section notwithstanding, the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall pay a percentage of the monthly contribution for the spouse and for each dependent child of a recipient who was a member of the General Assembly and is receiving a retirement allowance based on General Assembly service, of the Kentucky Employees Retirement System and determined to be in a hazardous position, of the County Employees Retirement System, and determined to be in a hazardous position or of the State Police Retirement System. The percentage of the monthly contribution paid for the spouse and each dependent child of a recipient who was in a hazardous position shall be based solely on the member's service with the State Police Retirement System or service in a hazardous position using the

formula in subsection (3)(a) of this section, except that for any recipient of a retirement allowance from the County Employees Retirement System who was contributing to the system on January 1, 1998, for service in a hazardous position, the percentage of the monthly contribution shall be based on the total of hazardous service and any nonhazardous service as a police or firefighter with the same agency, if that agency was participating in the County Employees Retirement System but did not offer hazardous duty coverage for its police and firefighters at the time of initial participation.

- (c) The insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, KRS 61.515, and 78.520 shall continue the same level of coverage for a recipient who was a member of the County Employees Retirement System after the age of sixty-five (65) as before the age of sixty-five (65), if the recipient is not eligible for Medicare coverage. If the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 provides coverage for the spouse or each dependent child of a former member of the County Employees Retirement System, the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall continue the same level of coverage for the spouse or each dependent child after the age of sixty-five (65) as before the age of sixty-five (65), if the spouse or dependent child is not eligible for Medicare coverage.
- (5) After July 1, 1998, notwithstanding any other provision to the contrary, a member who holds a judicial office but did not elect to participate in the Judicial Retirement Plan and is participating instead in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System, as provided in KRS 61.680, and who has at least twenty (20) years of total service, one-half (1/2) of which is in a judicial office, shall receive the same hospital and medical insurance benefits, including paid benefits for spouse and dependents, as provided to persons retiring under the provisions of KRS 21.427. The Administrative Office of the Courts shall pay the cost of the medical insurance benefits provided by this subsection.
- (6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance trust fund or accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520 shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.
- (7) The board shall promulgate an administrative regulation to establish a medical insurance reimbursement plan to provide reimbursement for hospital and medical insurance premiums of recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky and having the same Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance at the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly premium determined under subsection (3) of this section. The plan shall not be made available if all recipients are eligible for the same coverage as recipients living in Kentucky.
- (8)
 - (a)
 - 1. For employees having a membership date on or after July 1, 2003, and before September 1, 2008, participation in the insurance benefits provided under this section shall not be allowed until the employee has earned at least one hundred twenty (120) months of service in the state-administered retirement systems.
 - 2. For an employee having a membership date on or after September 1, 2008, participation in the insurance benefits provided under this section shall not be allowed until the employee has earned at least one hundred eighty (180) months of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system.
 - (b) An employee who meets the minimum service requirements as provided by paragraph (a) of this subsection shall be eligible for benefits as follows:
 - 1. For employees who are not in a hazardous position, a monthly insurance contribution of ten dollars (\$10) for each year of service as a participating employee.
 - 2. For employees who are in a hazardous position or who participate in the State Police Retirement System, a monthly insurance contribution of fifteen dollars (\$15) for each year of service as a

participating employee in a hazardous position or as a participating member of the State Police Retirement System. Upon the death of the retired member, the beneficiary, if the beneficiary is the member's spouse, shall be entitled to a monthly insurance contribution of ten dollars (\$10) for each year of service the member attained as a participating employee in a hazardous position or as a participating member of the State Police Retirement System.

- (c) 1. The minimum service requirement to participate in benefits as provided by paragraph (a) of this subsection shall be waived for a member who is disabled or killed in the line of duty as defined in KRS 16.505(19), and the member or his spouse and eligible dependents shall be entitled to the benefits payable under this subsection as though the member had twenty (20) years of service in a hazardous position.
- 2. The minimum service required to participate in benefits as provided by paragraph (a) of this subsection shall be waived for a member who is disabled in the line of duty as defined in KRS 61.621, and the member shall be entitled to the benefits payable under this subsection as though the member has twenty (20) years of service in a nonhazardous position.
- 3. The minimum service required to participate in benefits as provided by paragraph (a) of this subsection shall be waived for a member who is killed in the line of duty as described in KRS 61.621, and the member's spouse and eligible dependents shall be entitled to the benefits payable under this subsection as though the member has twenty (20) years of service in a hazardous position.
- (d) The monthly insurance contribution amount shall be increased July 1 of each year by one and one-half percent (1.5%). The increase shall be cumulative and shall continue to accrue after the member's retirement for as long as a monthly insurance contribution is payable to the retired member or beneficiary.
- (e) The benefits of this subsection provided to a member whose participation begins on or after July 1, 2003, shall not be considered as benefits protected by the inviolable contract provisions of KRS 61.692, 16.652, and 78.852. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in its judgment the welfare of the Commonwealth so demands.
- (f) An employee whose membership date is on or after September 1, 2008, who retires and is reemployed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems shall not be eligible for health insurance coverage or benefits provided by this section and shall take coverage with his or her employing agency during the period of reemployment in a regular full-time position.

➔Section 72. KRS 78.510 is amended to read as follows:

As used in KRS 78.510 to 78.852, unless the context otherwise requires:

- (1) "System" means the County Employees Retirement System;
- (2) "Board" means the board of trustees of the system as provided in KRS 78.780;
- (3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;
- (4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;
- (5) "Examiner" means the medical examiners as provided in KRS 61.665;
- (6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time

workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.510 to 78.852;

- (7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;
- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
- (9) "Service" means the total of current service and prior service as defined in this section;
- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided;
- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;
- (12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' ~~contribution~~ account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);
- (13) "Creditable compensation" means all salary, wages, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation", including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000). If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other items determined by the board shall be excluded. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4). For employees who begin participating on or after September 1, 2008, creditable compensation shall not include payments for compensatory time. Creditable compensation shall not include training incentive payments for city officers paid as set out in KRS 64.5277 to 64.5279;
- (14) "Final compensation" means:
 - (a) For a member who begins participating before September 1, 2008, who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;
 - (b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional

and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance;

- (c) For a member who begins participating before September 1, 2008, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;
 - (d) For a member who begins participating on or after September 1, 2008, **but prior to January 1, 2014**, who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) complete fiscal years immediately preceding retirement divided by five (5). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years shall be used; or
 - (e) For a member who begins participating on or after September 1, 2008, **but prior to January 1, 2014**, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) complete fiscal years he was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit;
- (15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;
- (16) "Retirement allowance" means the retirement payments to which a member is entitled;
- (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. **For members who begin participating in the system prior to January 1, 2014**, no disability retirement option shall be less than the same option computed under early retirement;
- (18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 78.510 to 78.852;
- (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefits limits as set out in 26 U.S.C. sec. 415;
- (20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.510 to 78.852;
- (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:
- (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed nine (9) months, except for employees of school boards, in which case the period of time shall not exceed six (6) months;

- (b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;
 - (c) Temporary, also referred to as probationary, positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or
 - (d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;
- (22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);
 - (23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;
 - (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
 - (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;
 - (26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;
 - (27) "Person" means a natural person;
 - (28) "School term or year" means the twelve (12) months from July 1 through the following June 30;
 - (29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
 - (30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula in KRS 61.5525, except the determination of the actuarial cost for classified employees of a school board shall be based on their final compensation, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's ~~contribution~~ account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;
 - (31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615;
 - (32) "Month" means a calendar month;
 - (33) "Membership date" means the date upon which the member began participating in the system as provided in KRS 78.615;
 - (34) "Participant" means a member, as defined by subsection (8) of this section, or a retired member, as defined by subsection (23) of this section;
 - (35) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:
 - (a) Is issued by a court or administrative agency; and
 - (b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee; ~~and~~
 - (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;

- (37) *"Accumulated employer credit" means the employer pay credit deposited to the member's account and interest credited on such amounts as provided by Sections 8 and 9 of this Act; and*
- (38) *"Accumulated account balance" means:*
- (a) *For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions; or*
 - (b) *For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by Sections 8 and 9 of this Act, the combined sum of the member's accumulated contributions and the member's accumulated employer credit.*

➔Section 73. KRS 78.530 is amended to read as follows:

- (1) (a) Each county and school board, as defined in KRS 78.510, will participate in the system by appropriate order authorizing such participation which has been entered and duly recorded in the records of the governing body of the county or school board. In cases where general purpose county government does not participate, but the sheriff and his employees or the county clerk and his employees do, the sheriff or the clerk shall retain the order in his office. The authority to issue and properly record such order of participation being hereby granted, permits such county to participate in the system. The effective date of such participation shall be fixed in the order.
- (b) Notwithstanding any statute to the contrary, after April 9, 2002, the systems shall deny the request for participation of any agency which does not have an irrevocable contract with the state Personnel Cabinet for health insurance coverage under KRS 18A.225 to 18A.229 for its active employees, except that:
 - 1. County governments entering the system between April 9, 2002, and July 1, 2003, under this section shall be excluded from this requirement; and
 - 2. Agencies entering the system on or after April 9, 2002, which were established by a merger or an interlocal agreement to provide public services shall be excluded from this requirement if all agencies entering into the merger or interlocal agreement had an initial participation date with the system prior to April 9, 2002.
- (2) Once a county or school board participates, it shall thereafter continue to participate, except as provided in KRS 78.535.
- (3) (a) Concurrent with the adoption of the appropriate resolution to participate in the system, a county may elect the alternate participation plan which will require the county to purchase on behalf of each employee electing coverage, at the time the county elected to participate in the system as provided under KRS 78.540(2), current service credit for employment in regular full-time positions between July 1, 1958, and the participation date of the county. Cities which participate in the system pursuant to subsection (7) of this section, KRS 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 shall be required to purchase on behalf of each employee electing coverage only as much service credit as the employee has accumulated in the city-administered plan, up to the participation date of the city. Accumulated service shall include service for which an employee received a refund pursuant to KRS 95.620 or 95.866, if such refund has been repaid. If the employee has not yet repaid the refund, he may make payment to the system by any method acceptable to the system, and the requirement of five (5) years of continuous reemployment prior to repayment of refunds shall not apply. Upon the employee's repayment, the city shall purchase the associated service credit for the employee. Cost of such service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of such actuarial service shall be paid by the county;
- (b) The county shall establish a payment schedule subject to approval by the board for payment of the cost of such service over and above that which would be funded within the existing employer contribution rate. The maximum period allowed in a payment schedule shall be thirty (30) years, with interest at the rate actuarially assumed by the board. A shorter period is desirable and the board may approve any payment schedule provided it is not longer than a thirty (30) year period, except that cities which participate in the system pursuant to subsection (7) of this section, KRS 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 may, at their option, extend the payment schedule to a maximum of thirty (30) years, may choose to make level payments at the interest rate actuarially

assumed by the board over the life of the payment schedule chosen, and may retain employer contributions and the earnings thereon attributable to employees electing coverage;

- (c) A city entering the system under the alternate participation plan, may, by ordinance, levy a special property tax to pay for current service credit purchased for the period between July 1, 1958, and the participation date of the city. The special tax shall be to pay, within a period of no more than fifteen (15) years, for the cost of such service credit over that which would be funded within the existing employer contribution rate, as determined by the board's consulting actuary. The reason for levying the special tax and the disposition of the proceeds shall be part of the ordinance levying the tax. The special tax shall be rescinded when the unfunded prior service liability has been amortized, and shall not be subject to the provisions of KRS 132.017 or 132.027. In addition, the city may maintain any tax, the proceeds of which had been devoted to funding pension obligations under the locally administered plan prior to participation in the system, for the purpose of funding current service costs incurred after the date of participation. The city may increase the tax to pay current service costs which exceed the local pension system costs to which the tax had been devoted, but the city shall not collect from the tax more revenues than are necessary to pay current service costs incurred after the date of participation. The city may continue the tax so long as it participates in the system, and the tax shall not be subject to the provisions of KRS 132.017 or 132.027. The city shall not collect either tax authorized by this paragraph if its participation has been terminated pursuant to KRS 78.535;
- (d) The county may at a later date purchase current service credit from July 1, 1958, to the participation date of the county by alternate participation plan for those employees who rejected membership in the system at the time the county first participated. In addition, the employer shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. Cost of the service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of the actuarial service shall be paid by the county. The county shall pay the cost of the service by lump sum or by adding it to the existing payment schedule established under paragraph (b) of this subsection;
- (e) A county which did not participate by alternate participation may, until July 1, 1991, purchase current service credit for those employees who rejected membership in the system at the time the county first participated. The employer shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. The county shall pay the cost of the service credit by lump sum or by establishing a payment schedule under paragraph (b) of this subsection; and
- (f) A county which participated in the system but did not elect the alternate participation plan may at a later date elect the alternate participation plan. In this case, the county shall purchase on behalf of each employee participating in the system current service credit for employment in regular full-time positions between July 1, 1958, or a later date selected by the county government, and the participation date of the county. The county shall also purchase, for employees who decide to participate when the county elects the alternate participation plan, current service credit for employment in regular full-time positions between July 1, 1958, or the later date selected by the county government, and the participation date of the county. In addition, the county shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. Cost of the service credit over that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of the actuarial service shall be paid by the county. The county shall pay the cost of the service by lump sum or by a payment schedule established under paragraph (b) of this subsection.
- (g) *Notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, this subsection shall not apply to members who begin participating in the system on or after January 1, 2014, and no*

county that elects to participate in the system on or after January 1, 2014, shall be eligible to participate under the alternate participation plan.

- (4) Every school board not participating on June 21, 1974, shall enact a resolution of participation no later than July 1, 1976.
- (5) The order of the governing body of a county, as provided for in subsection (1) of this section, may exclude from participation in the system hospitals and any other semi-independent agency. Each such excluded agency shall be identified in the order authorizing participation and such excluded agency may participate in the system as a separate agency.
- (6) An agency whose participation in the County Employees Retirement System has been terminated by the board of trustees in accordance with KRS 78.535 may at a later date request participation in the retirement system by the adoption of an appropriate order as authorized by subsection (1) of this section. The board may accept the participation of such agency provided it is determined that such participation is in the best interest of the agency, the employees thereof and the County Employees Retirement System.
- (7)
 - (a) After August 1, 1988, except as permitted by KRS 65.156, no local government retirement system shall be created pursuant to KRS 70.580 to 70.598 and any local government retirement systems created pursuant to KRS 79.080, 90.400, 90.410, 95.768, and KRS Chapter 96 shall be closed to new members. New employees who would have been granted membership in such retirement systems shall instead be granted membership in the County Employees Retirement System. Employees who would have been granted membership in retirement systems created pursuant to KRS 95.768, or any other policemen or firefighters who would have been granted membership in retirement systems created pursuant to KRS 79.080, 90.400, or 90.410, or any such policemen or firefighter members employed on or prior to August 1, 1988, who transfer to the County Employees Retirement System, shall be certified by their employers as working in hazardous positions. Each city participating in the County Employees Retirement System pursuant to this subsection shall execute the appropriate order authorizing such participation, shall select the alternate participation plan as described in subsection (3) of this section, and shall pay for the actuarial services necessary to determine the additional costs of alternate participation. Cities which closed their local pension systems to new members and participated in the system prior to July 15, 1988, whose employees at the time of transition were given the option to join the system shall not be required to offer said employees a second option to join the system.
 - (b) Notwithstanding any statute to the contrary, after April 9, 2002, the systems shall deny the request for participation of any agency which does not have an irrevocable contract with the state Personnel Cabinet for health insurance coverage under KRS 18A.225 to 18A.229 for its active employees, except that agencies entering the system on or after April 9, 2002, which were established by a merger or an interlocal agreement to provide public services shall be excluded from this requirement if all agencies entering into the merger or interlocal agreement had an initial participation date with the system prior to April 9, 2002.
- (8) Any city which closed a police and firefighter pension plan to new members between January 1, 1988, and July 15, 1988, and participated in the system under the alternate participation plan shall, if its police and firefighters were not covered by Social Security, or any city which operates a pension under KRS 90.400 or 90.410, shall be required to certify that its police and firefighters are working in hazardous positions, and shall offer its police and firefighters in service at the time of entry a second option to participate under hazardous duty coverage if they were not offered hazardous duty coverage at the time of their first option. The provisions of subsection (3)(b) of this section notwithstanding, a city affected by this subsection may, at its option, extend its payment schedule to the County Employees Retirement System for alternate participation to thirty (30) years at the rate actuarially assumed by the board.

➔Section 74. KRS 78.540 is amended to read as follows:

Membership in the system shall consist of the following:

- (1) All persons who become employees of a participating county after the date the county first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3), and except that mayors and members of city legislative bodies may decline prior to their participation in the system and city managers or other appointed local government executives who participate in a retirement system, other than Social Security, may decline prior to their participation in the system;
- (2)
 - (a) All persons who are employees of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following the

county's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 78.520 to 78.852;

- (b) All persons who are employees of a county who did not elect to participate within thirty (30) days of the date the county first participated in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the county's date of participation;
- (3) All persons who declined participation in subsection (1) of this section and who later elect to participate. Persons who elect to participate under this subsection may purchase service credit for any prior years by paying a delayed contribution payment, *provided the person began participating in the system prior to January 1, 2014*. The service shall not be included in the member's total service for purposes of determining benefits under KRS 61.702; and
- (4) All persons electing coverage in the system under KRS 78.530(3)(d).
- (5) The provisions of subsections (1) and (2) of this section notwithstanding, cities which participate in the CERS and close existing local pension systems to new, or all members pursuant to the provisions of KRS 78.530, 95.520, 95.621, or 95.852 shall not be required to provide membership in the County Employees Retirement System to employees in any employee category not covered by a city pension system at the date of participation.
- (6) Membership in the system shall not include those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360.

➔Section 75. KRS 78.545 is amended to read as follows:

The following matters shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

- (1) Cessation of membership, conditions, as provided for by KRS 61.535;
- (2) Statement of member and employer, as provided for by KRS 61.540;
- (3) Beneficiary to be designated by member, change, rights, as provided for by KRS 61.542;
- (4) Service credit determination, as provided for by KRS 61.545;
- (5) Cessation of membership, loss of benefits, as provided for by KRS 61.550;
- (6) Service credit, Armed Forces, as provided for by KRS 61.555;
- (7) Normal and early retirement eligibility requirements, as provided for by KRS 61.559;
- (8) Retirement allowance increases as provided for by KRS 61.691;
- (9) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;
- (10) Disability retirement, conditions, as provided for by KRS 61.600;
- (11) Disability retirement, allowance, as provided for by KRS 61.605;
- (12) Medical examination after disability retirement, as provided for by KRS 61.610;
- (13) Disability retirement allowance, reduction, as provided for by KRS 61.615;
- (14) Determination of retirement allowance, as provided for by KRS 61.595;
- (15) Refund of contributions, conditions, as provided for by KRS 61.625;
- (16) Refund of contributions, death after retirement, as provided for by KRS 61.630;
- (17) Optional retirement plans, as provided for by KRS 61.635;
- (18) Suspension of retirement payments on reemployment, reinstatement, as provided for by KRS 61.637;
- (19) Death before retirement, beneficiary's options, as provided for by KRS 61.640;
- (20) Board of trustees, conflict of interest, as provided for by KRS 61.655;

- (21) Custodian of funds, payments made, when, as provided for by KRS 61.660;
- (22) Medical examiners and hearing procedures, as provided for by KRS 61.665;
- (23) Actuarial bases, as provided for by KRS 61.670;
- (24) Employer's administrative duties, as provided for by KRS 61.675;
- (25) Correction of errors in records, as provided for by KRS 61.685;
- (26) Exemptions of retirement allowances, and qualified domestic relations orders, as provided for by KRS 61.690;
- (27) Credit for service prior to membership date, as provided for by KRS 61.526;
- (28) Creditable compensation of fee officers, as provided for by KRS 61.541;
- (29) Members' account, confidential, as provided for by KRS 61.661;
- (30) Retirement plan for employees determined to be in a hazardous position, as provided for by KRS 61.592;
- (31) Maximum disability benefit, as provided for by KRS 61.607;
- (32) Consent of employees to deductions and reciprocal arrangement between systems, as provided for by KRS 61.680;
- (33) Employer contributions, as provided for by KRS 61.565;
- (34) Recontribution and delayed contribution payments, purchase of service credit, interest, and installment payments, as provided for by KRS 61.552;
- (35) Hospital and medical insurance plan, as provided by KRS 61.702;
- (36) Death benefit, as provided by KRS 61.705;
- (37) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;
- (38) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;
- (39) Disability procedure for members in hazardous positions as provided for in KRS 16.582;
- (40) Direct deposit of recipient's retirement allowance as provided for in KRS 61.623;
- (41) Death or disability from a duty-related injury as provided in KRS 61.621;
- (42) Purchase of service credit effective July 1, 2001, as provided in KRS 61.5525;~~and~~
- (43) Payment of small accounts upon death of member, retiree, or recipient without formal administration of the estate as provided in KRS 61.703;
- (44) *Hybrid cash balance plan provided to new members as provided by Section 9 of this Act;***
- (45) *Employer payment of increases in creditable compensation during the last five (5) years of employment as provided by Section 10 of this Act; and***
- (46) *Calculation of retirement allowance, as provided by Section 11 of this Act.***

➔Section 76. KRS 78.616 is amended to read as follows:

- (1) Any agency participating in the County Employees Retirement System which has formally adopted a sick-leave program that is universally administered to its employees may purchase service credit with the retirement system for up to six (6) months of unused sick leave for each retiring employee.
- (2) Participation under this section shall be at the option of each participating employer. The election to participate shall be made by the governing authority of the participating employer and shall be certified in writing to the system on forms prescribed by the board. The certification shall provide for equal treatment of all employees participating under this section.
- (3) (a) Upon the member's notification of retirement as prescribed in KRS 61.590, the employer shall certify the retiring employee's unused, accumulated sick-leave balance to the system. The member's sick-leave balance, expressed in days, shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. A maximum of six (6) months of the member's sick-leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 78.510 to 78.852 and for the

purpose of determining whether the member is eligible to receive a retirement allowance under KRS 78.510 to 78.852, except as provided by paragraph (d) of this subsection. Accumulated sick-leave in excess of six (6) months shall be added to the member's service credit if the member or employer pays to the retirement system the value of the additional service credit based on the formula adopted by the board, subject to the restrictions provided by paragraph (d) of this subsection.

- (b) The employer may elect to pay fifty percent (50%) of the cost of the sick leave in excess of six (6) months on behalf of its employees. The employee shall pay the remaining fifty percent (50%). The payment by the employer shall not be deposited to the member's account. Service credit shall not be credited to the member's account until both the employer's and employee's payments are received by the retirement system.
- (c) Once the employer elects to pay all or fifty percent (50%) of the cost on behalf of its employees, it shall continue to pay the same portion of the cost.
- (d) For a member who begins participating in the retirement system on or after September 1, 2008, **but prior to January 1, 2014**, whose employer has established a sick-leave program under subsections (1) to (4) and (6) of this section:
 - 1. The member shall receive no more than twelve (12) months of service credit upon retirement for accumulated unused sick leave accrued while contributing to the retirement system from which the retirement benefit is to be paid;
 - 2. The service added to the member's service credit shall be used for purposes of determining the member's annual retirement allowance under KRS 78.510 to 78.852;
 - 3. The service added to the member's service credit shall not be used to determine whether a member is eligible to receive a retirement allowance under KRS 78.510 to 78.852; and
 - 4. The cost of the service provided by this paragraph shall be paid by the employer.
- (4) The system shall compute the cost of the sick-leave credit of each retiring employee and bill each employer with whom the employee accrued sick leave accordingly. The employer shall remit payment within thirty (30) days from receipt of the bill.
- (5)
 - (a) As an alternative to subsections (1), (3), (4), and (6) of this section, any agency participating in the County Employees Retirement System which has formally adopted a sick-leave program that is universally administered to its employees, or administered to a majority of eligible employees in accordance with subsection (6) of this section, shall, at the time of termination, or as provided in KRS 161.155 in the case of school boards, compensate the employee for unused sick-leave days the employee has accumulated which it is the uniform policy of the agency to allow.
 - (b) The rate of compensation for each unused sick-leave day shall be based on the daily salary rate calculated from the employee's current rate of pay. Payment for unused sick-leave days shall be incorporated into the employee's final compensation if the employee and employer make the regular employee and employer contributions, respectively, on the sick-leave payment.
 - (c) The number of sick-leave days for which the employee is compensated shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. This number of months shall be added to the employee's total service credit and to the number of months used to determine creditable compensation, pursuant to KRS 78.510, but no more than sixty (60) months shall be used to determine final compensation. For an employee who begins participating on or after September 1, 2008, **but prior to January 1, 2014**, the number of months added to the employee's total service credit under this paragraph shall not exceed twelve (12) months, and the additional service shall not be used to determine whether a member is eligible to receive a retirement allowance under KRS 78.510 to 78.852.
- (6) Any city of the first class that has two (2) or more sick-leave programs for its employees may purchase service credit with the retirement system for up to six (6) months of unused sick leave for each retiring employee who participates in the sick-leave program administered to a majority of the eligible employees of the city. An employee participating in a sick-leave program administered to a minority of the eligible employees shall become eligible for the purchase of service credit under this subsection when the employee commences participating in the sick-leave program that is administered to a majority of the eligible employees of the city.

- (7) *The provisions of this section shall not apply to employees who begin participating in the system on or after January 1, 2014, and no service credit shall be provided for accumulated sick leave balances of those employees who begin participating in the system on or after January 1, 2014.*

➔Section 77. KRS 78.630 is amended to read as follows:

All of the assets of the system shall be held and invested in the county employees' retirement fund and credited, according to the purpose for which they are held, to one (1) of three (3) accounts, namely, the members' ~~contribution~~ account, the retirement allowance account, and accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b).

➔Section 78. KRS 78.640 is amended to read as follows:

- (1) The members' ~~contribution~~ account shall be the account to which:
- (a) All members' contributions, or contributions picked up by the employer after August 1, 1982, and interest allowances as provided in KRS 78.510 to 78.852 shall be credited, except as provided by KRS 61.702(2)(b); **and**
- (b) *For members who begin participating in the system on or after January 1, 2014, the employer pay credit and interest credited on such amounts as provided by Sections 8 and 9 of this Act shall be credited.*

Only funds from this account shall be *used to return* ~~paid~~ the accumulated contributions *or accumulated account balances* of a member *when* required to be returned to him *by reason of any provision of KRS 78.510 to 78.852* ~~upon withdrawal, or paid in the event of his death before retirement~~. Prior to the member's retirement, death, or refund in accordance with KRS 61.625, no funds shall be made available from the member's ~~contribution~~ account.

- (2) Each member's contribution or contribution picked up by the employer shall be credited to the individual account of the contributing member, except as provided by KRS 61.702(2)(b).
- (3) (a) Each member ~~on June 30 of each year~~ shall have his individual account credited with interest **on June 30 of each year**.
- (b) For a member who begins participating before September 1, 2008, interest shall be credited to his individual account at a rate determined by the board but not less than two percent (2%) per annum on the accumulated **account balance** ~~contributions~~ of the member on June 30 of the preceding fiscal year.
- (c) For a member who begins participating on or after September 1, 2008, **but prior to January 1, 2014**, interest shall be credited to his or her individual account at a rate of two and one-half percent (2.5%) per annum on the accumulated contributions of the member on June 30 of the preceding fiscal year.
- (d) *For a member who begins participating on or after January 1, 2014, in the hybrid cash balance plan, interest shall be credited in accordance with Sections 8 and 9 of this Act.*
- (e) The amounts of interest credited to a member's account under this subsection shall be transferred from the retirement allowance account.
- (4) (a) Upon the retirement of a member *who began participating in the system prior to January 1, 2014*, his accumulated **account balance** ~~contributions~~ shall be transferred from the members' ~~contribution~~ account to the retirement allowance account.
- (b) *Upon the retirement of a member who began participating in the system on or after January 1, 2014, who elects to annuitize his or her accumulated account balance as prescribed by subsection (7)(a) or (b) of Section 8 of this Act or subsection (7)(a) or (b) of Section 9 of this Act, the member's accumulated account balance shall be transferred to the retirement allowance account.*

➔Section 79. KRS 78.650 is amended to read as follows:

The retirement allowance account shall be the account in which shall be accumulated all employer contributions and amounts transferred from the members' ~~contribution~~ account, and to which all income from the invested assets of the system shall be credited. From this account shall be paid the expenses of the system and the board in administration of the system, retirement allowances, and any other benefits payable after a member's retirement and from this account shall be transferred to the members' ~~contribution~~ account.

- (1) *The employer pay credit added monthly to each member's individual accounts as provided by Sections 8 and 9 of this Act; and*

(2) The interest credited annually to each member's individual account as provided by KRS 78.510 to 78.852.

➔Section 80. KRS 78.852 is amended to read as follows:

- (1) *For members who begin participating in the County Employees Retirement System prior to January 1, 2014*, it is hereby declared that in consideration of the contributions by the members and in further consideration of benefits received by the county from the member's employment, KRS 78.510 to 78.852 shall, except as provided in KRS 6.696 effective September 16, 1993, constitute an inviolable contract of the Commonwealth, and the benefits provided therein shall, except as provided in KRS 6.696, not be subject to reduction or impairment by alteration, amendment, or repeal.
- (2) (a) *For members who begin participating in the County Employees Retirement System on or after January 1, 2014, the General Assembly reserves the right to amend, suspend, or reduce the benefits and rights provided under KRS 78.510 to 78.852 if, in its judgment, the welfare of the Commonwealth so demands, except that the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall not be affected.*
- (b) *For purposes of this subsection, the amount of benefits the member has accrued at the time of amendment, suspension, or reduction shall be limited to the accumulated account balance the member has accrued at the time of amendment, suspension, or reduction.*
- (c) *The provisions of this subsection shall not be construed to limit the General Assembly's authority to change any other benefit or right specified by KRS 78.510 to 78.852, except the benefits specified by paragraph (b) of this subsection, for members who begin participating in the County Employees Retirement System on or after January 1, 2014.*
- (3) *The provisions of this section shall not be construed to limit the General Assembly's authority to amend, reduce, or suspend the benefits and rights of members of the County Employees Retirement System as provided by KRS 78.510 to 78.852 that the General Assembly had the authority to amend, reduce, or suspend, prior to the effective date of this Act.*

➔Section 81. Notwithstanding any other provision of this Act to the contrary, the amendments in Sections 16, 25, and 69 of this Act shall in no way nullify the provisions of 2012 Ky. Acts ch. 19, Part I, 1.(4), 2012 Ky. Acts ch. 68, Part I, 2.(2), or 2012 Ky. Acts ch. 144, Part IV, 10., which suspended the cost-of-living adjustment that would have been provided to retirees and beneficiaries of the Legislative Retirement Plan, the Judicial Retirement Plan, the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System on July 1, 2012, and July 1, 2013.

➔Section 82. Kentucky Retirement Systems shall within 30 days following the effective date of this Act begin notifying members regarding the additional trustee to be elected by members and retired members of the County Employees Retirement System, as provided by Section 65 of this Act. Kentucky Retirement Systems shall establish an election process to ensure the election of the new trustee for the County Employees Retirement System added by Section 65 of this Act shall be completed no later than November 1, 2013.

➔Section 83. This Act takes effect July 1, 2013.

Signed by Governor April 4, 2013.

CHAPTER 121

(SB 13)

AN ACT relating to alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 241.010 is amended to read as follows:

As used in this chapter and in KRS Chapters 242 and 243, unless the context requires otherwise:

- (1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process it is produced;

- (2) "Alcoholic beverage" means every liquid or solid, whether patented or not, containing alcohol in an amount in excess of more than one percent (1%) of alcohol by volume, which is fit for beverage purposes. It includes every spurious or imitation liquor sold as, or under any name commonly used for, alcoholic beverages, whether containing any alcohol or not. It does not include the following products:
- (a) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, National Formulary, or the American Institute of Homeopathy;
 - (b) Patented, patent, and proprietary medicines;
 - (c) Toilet, medicinal, and antiseptic preparations and solutions;
 - (d) Flavoring extracts and syrups;
 - (e) Denatured alcohol or denatured rum;
 - (f) Vinegar and preserved sweet cider;
 - (g) Wine for sacramental purposes; **and**
 - (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external use; ~~and~~
 - ~~(i) Malt beverages, containing not more than three and two tenths percent (3.2%) of alcohol by weight, in territory that has voted to allow the sale thereof;~~
- (3) (a) "Alcohol vaporizing device" or "AWOL device" means any device, machine, or process that mixes liquor, spirits, or any other alcohol product with pure oxygen or by any other means produces a vaporized alcoholic product used for human consumption;
- (b) "Alcohol vaporizing device" or "AWOL device" does not include an inhaler, nebulizer, atomizer, or other device that is designed and intended by the manufacturer to dispense a prescribed or over-the-counter medication or a device installed and used by a licensee under this chapter to demonstrate the aroma of an alcoholic beverage;
- (4) ***"Automobile race track" means a facility primarily used for vehicle racing that has a seating capacity of at least thirty thousand (30,000) people;***
- ~~(5)(4)~~ "Board" means the State Alcoholic Beverage Control Board created by KRS 241.030;
- ~~(6)(5)~~ "Bottle" means any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail;
- ~~(7)(6)~~ "Brewer" means any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery, either ***alone*** ~~by himself~~ or ***through an*** ~~by his~~ agent;
- ~~(8)(7)~~ "Brewery" means any place or premises where malt beverages are manufactured for sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards, and storerooms connected with the premises; or where any part of the process of the manufacture of malt beverages is carried on; or where any apparatus connected with manufacture is kept or used; or where any of the products of brewing or fermentation are stored or kept;
- ~~(9)(8)~~ "Building containing licensed premises" means the licensed premises themselves and includes the land, tract of land, or parking lot in which the premises are contained, and any part of any building connected by direct access or by an entrance which is under the ownership or control of the licensee by lease holdings or ownership;
- ~~(10)(9)~~ "Caterer" means a corporation, partnership, or individual that operates the business of a food service professional by preparing food in a licensed and inspected commissary, transporting the food and alcoholic beverages to the caterer's designated and inspected banquet hall or to a location selected by the customer, and serving the food and alcoholic beverages to the customer's guests;
- ~~(11)(10)~~ "Charitable organization" means a nonprofit entity recognized as exempt from federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec. 501(c)) or any organization having been established and continuously operating within the Commonwealth of Kentucky for charitable purposes for three (3) years and which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational, literary, civic, fraternal, or patriotic purposes;
- ~~(12)(11)~~ "Cider" means any fermented fruit-based beverage containing more than one-tenth of one percent (0.1%) alcohol by volume and includes hard cider and perry cider;

- (13)~~(12)~~ "City administrator" means city alcoholic beverage control administrator;
- (14)~~(13)~~ "Commissioner" means the commissioner of the Department of Alcoholic Beverage Control;
- (15)~~(14)~~ "Convention center" means any facility which, in its usual and customary business, provides seating for a minimum of one thousand (1,000) people and offers convention facilities and related services for seminars, training and educational purposes, trade association meetings, conventions, or civic and community events or for plays, theatrical productions, or cultural exhibitions;
- (16)~~(15)~~ "Convicted" and "conviction" means a finding of guilt resulting from a plea of guilty, the decision of a court, or the finding of a jury, irrespective of a pronouncement of judgment or the suspension of the judgment;
- (17)~~(16)~~ "County administrator" means county alcoholic beverage control administrator;
- (18)~~(17)~~ "Department" means the Department of Alcoholic Beverage Control;
- (19) ***"Dining car" means a railroad passenger car that serves meals to consumers on any railroad or Pullman car company;***
- (20)~~(18)~~ "Distilled spirits" or "spirits" means any product capable of being consumed by a human being which contains alcohol in excess of the amount permitted by KRS Chapter 242 obtained by distilling, mixed with water or other substances in solution, except wine, hard cider, and malt beverages;
- (21)~~(19)~~ "Distiller" means any person who is engaged in the business of manufacturing distilled spirits at any distillery in the state and is registered in the Office of the Collector of Internal Revenue for the United States at Louisville, Kentucky;
- (22)~~(20)~~ "Distillery" means any place or premises where distilled spirits are manufactured for sale, and which are registered in the office of any collector of internal revenue for the United States. It includes any United States government bonded warehouse;
- (23)~~(21)~~ "Distributor" means any person who distributes malt beverages for the purpose of being sold at retail;
- (24)~~(22)~~ "Dry ~~territory~~" means a ***territory***~~[county, city, district, or precinct]~~ in which a majority of ***the electorate***~~[voters have]~~ voted ***to prohibit all forms of retail alcohol sales by a KRS 242.050, Section 15 of this Act, or other local option election***~~[in favor of prohibition];~~
- (25)~~(23)~~ "Election" means:
- (a) An election held for the purpose of taking the sense of the people as to the application or discontinuance of alcoholic beverage sales under KRS Chapter 242; or
 - (b) Any other election not pertaining to alcohol;
- (26)~~(24)~~ "Field representative" means any employee or agent of the department who is regularly employed and whose primary function is to travel from place to place for the purpose of visiting taxpayers, and any employee or agent of the department who is assigned, temporarily or permanently, by the commissioner to duty outside the main office of the department at Frankfort, in connection with the administration of alcoholic beverage statutes;
- (27) ***"Horse racetrack" means a facility licensed to conduct a horse race meeting under KRS Chapter 230;***
- (28) ***"Hotel" means a hotel, motel, or inn for accommodation of the traveling public, designed primarily to serve transient patrons;***
- (29)~~(25)~~ "License" means any license issued pursuant to KRS ***Chapters 241 to 244***~~[243.020 to 243.670];~~
- (30)~~(26)~~ "Licensee" means any person to whom a license has been issued, pursuant to KRS ***Chapters 241 to 244***~~[243.020 to 243.670];~~
- (31)~~(27)~~ "Limited restaurant" means:
- (a) A facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross income from the sale of food, which maintains a minimum seating capacity of one hundred (100) persons for dining, and which is located in a ***wet or moist territory***~~[where prohibition is no longer in effect]~~ under ***subsection (2) of Section 14 of this Act***~~[KRS 242.185(6)];~~ or
 - (b) A facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross income from the

sale of food, which maintains a minimum seating capacity of fifty (50) persons for dining, which has no open bar, which requires that alcoholic beverages be sold in conjunction with the sale of a meal, and which is located in a *wet or moist* territory ~~where prohibition is no longer in effect~~ under KRS 242.1244;

- (32)~~(28)~~ "Malt beverage" means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt ~~and having an alcoholic content greater than that permitted under subsection (2)(i) of this section~~;
- (33)~~(29)~~ "Manufacture" means distill, rectify, brew, bottle, and operate a winery;
- (34)~~(30)~~ "Manufacturer" means a *winery* ~~winner~~, distiller, rectifier, or brewer, and any other person engaged in the production or bottling of alcoholic beverages;
- (35)~~(31)~~ "Minor" means any person who is not twenty-one (21) years of age or older;
- (36) *"Moist" means a territory in which a majority of the electorate voted to permit limited alcohol sales by any one (1) or a combination of special limited local option elections authorized by Section 4, 5, 11, 13, 14, or 17 of this Act;*
- (37)~~(32)~~ "Premises" means the land and building in and upon which any business regulated by alcoholic beverage statutes is operated or carried on. "Premises" shall not include as a single unit two (2) or more separate businesses of one (1) owner on the same lot or tract of land, in the same or in different buildings if physical and permanent separation of the premises is maintained, excluding employee access by keyed entry and emergency exits equipped with crash bars, and each has a separate public entrance accessible directly from the sidewalk or parking lot. Any licensee holding an alcoholic beverage license on July 15, 1998 shall not, by reason of this subsection, be ineligible to continue to hold his or her license or obtain a renewal, of the license;
- (38) *"Private club" means a nonprofit social, fraternal, military, or political organization, club, or entity maintaining or operating a club room, club rooms, or premises from which the general public is excluded;*
- (39) *"Public nuisance" means a condition that endangers safety or health, is offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by a community or neighborhood or by any considerable number of persons;*
- ~~(33) "Prohibition" means the application of KRS 242.190 to 242.430 to a territory;~~
- (40)~~(34)~~ "Qualified historic site" means a contributing property with dining facilities for at least fifty (50) persons at tables, booths, or bars where food may be served within a commercial district listed in the National Register of Historic Places, or a site that is listed as a National Historic Landmark *or in the National Register of Historic Places* with dining facilities for at least fifty (50) persons at tables, booths, or bars where food may be served. Notwithstanding the provisions of this subsection:~~;~~
- (a) A distillery which is listed as a National Historic Landmark and which *conducts* ~~has a~~ souvenir retail *package sales* ~~liquor license~~ under KRS 243.0305; *and*
- (b) *A not-for-profit or nonprofit facility listed on the National Register of Historic Places;*~~;~~
- shall be deemed a "qualified historic site" under this section;
- (41)~~(35)~~ "Rectifier" means any person who rectifies, purifies, or refines distilled spirits or wine by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying, or refining distilled spirits by mixing alcoholic beverages with any materials, manufactures any imitations of or compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine, spirits, cordials, bitters, or any other name;
- (42)~~(36)~~ "Repackaging" means the placing of alcoholic beverages in any retail container irrespective of the material from which the container is made;
- (43)~~(37)~~ "Restaurant" means a facility where the usual and customary business is the serving of meals to consumers, that has a bona fide kitchen facility, and that receives at least fifty percent (50%) of its food and beverage receipts from the sale of food;
- (44)~~(38)~~ "Retail container" means any bottle, can, barrel, or other container which, without a separable intermediate container, holds alcoholic beverages and is suitable and destined for sale to a retail outlet, whether it is suitable for delivery to the consumer or not;

- (45)~~((39))~~ "Retail outlet" means retailer, hotel, motel, restaurant, railroad dining car, club, and any facility where alcoholic beverages are sold directly to the consumers;
- (46)~~((40))~~ "Retail sale" means any sale where delivery is made in Kentucky to any consumers;
- (47)~~((41))~~ "Retailer" means any person who sells at retail any alcoholic beverage for the sale of which a license is required;
- (48) ***"Riverboat" means any boat or vessel with a regular place of mooring in this state that is licensed by the United States Coast Guard to carry one hundred (100) or more passengers for hire on navigable waters in or adjacent to this state;***
- (49)~~((42))~~ "Sale" means any transfer, exchange, or barter for consideration, and includes all sales made by any person, whether principal, proprietor, agent, servant, or employee, of any alcoholic beverage;
- (50)~~((43))~~ "Service bar" means a bar, counter, shelving, or similar structure used for storing or stocking supplies of alcoholic beverages that is a workstation where employees prepare alcoholic beverage drinks to be delivered to customers away from the service bar. A service bar shall be located in an area where the general public, guests, or patrons are prohibited;
- (51)~~((44))~~ "Sell" includes solicit or receive an order for, keep or expose for sale, keep with intent to sell, and the delivery of any alcoholic beverage;
- (52)~~((45))~~ "Small farm winery" means a winery producing wines, in an amount not to exceed fifty thousand (50,000) gallons in a calendar year;
- (53)~~((46))~~ "Souvenir package" means a special package of Kentucky straight bourbon whiskey available for retail sale at a licensed Kentucky distillery where the whiskey was produced or bottled that is available from a licensed retailer;
- (54)~~((47))~~ "State director" means the director of the Division of Distilled Spirits or the director of the Division of Malt Beverages, or both, as the context requires;
- (55)~~((48))~~ "Supplemental bar" means a bar, counter, shelving, or similar structure used for serving and selling distilled spirits or wine by the drink for consumption on the licensed premises to guests and patrons from additional locations other than the main bar. A supplemental bar shall be continuously constructed and accessible to patrons for distilled spirits or wine sales or service without physical separation by walls, doors, or similar structures;
- (56) ***"Territory" means a county, city, district, or precinct;***
- (57)~~((49))~~ "Vehicle" means any device or animal used to carry, convey, transport, or otherwise move alcoholic beverages or any products, equipment, or appurtenances used to manufacture, bottle, or sell these beverages;
- ~~((50)) "Vintner" means any person who owns, occupies, carries on, works, conducts, or operates any winery, either by himself or by his agent, except persons who manufacture wine for sacramental purposes exclusively.;~~
- (58)~~((51))~~ "Warehouse" means any place in which alcoholic beverages are housed or stored;
- (59) ***"Wet" means a territory in which a majority of the electorate voted to permit all forms of retail alcohol sales by a local option election under KRS 242.050, Section 15 of this Act, or Section 17 of this Act on the following question: "Are you in favor of the sale of alcoholic beverages in (name of territory)?"***;
- (60)~~((52))~~ "Wholesale sale" means a sale to any person for the purpose of resale;
- (61)~~((53))~~ "Wholesaler" means any person who distributes alcoholic beverages for the purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer or cooperative of a retail outlet;
- (62)~~((54))~~ "Wine" means the product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne and sparkling and fortified wine of an alcoholic content not to exceed twenty-four percent (24%) by volume. It includes cider, hard cider, and perry cider and also includes preparations or mixtures vended in retail containers if these preparations or mixtures contain not more than fifteen percent (15%) of alcohol by volume. It includes ciders, perry, or sake ~~having an alcohol content greater than that permitted under subsection (2)(i) of this section~~; and
- (63)~~((55))~~ "Winery" means any place or premises in which wine is manufactured from any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are compounded, ***except a place or premises that manufactures wine for sacramental purposes exclusively.***

➔Section 2. KRS 241.065 is amended to read as follows:

- (1) The number of *quota* retail package~~[liquor]~~ licenses issued by the Alcoholic Beverage Control Board to licensees in counties containing cities of the first class, and including such cities, shall not exceed a number equal to one (1) for every one thousand five hundred (1,500) persons resident in such county.
- (2) The number of *quota* retail drink licenses issued by the Alcoholic Beverage Control Board to licensees in counties containing cities of the first class, and including such cities shall not exceed a number equal to one (1) for every one thousand five hundred (1,500) persons resident in such county.
- (3) In order that a fixed and approved standard of population as prescribed in subsections (1) and (2) of this section may be adopted the annual estimates of population as determined by chambers of commerce of cities of the first class shall be used in every year except a census year, and during a census year the United States government census figures of population shall be controlling.

➔Section 3. KRS 241.075 is amended to read as follows:

- (1) The State Alcoholic Beverage Control Board shall, for the purpose of regulating the location of *quota* retail package *licenses*~~[liquor]~~ and *quota* retail drink licenses in cities of the first class or consolidated local governments, divide such cities or consolidated local governments into "downtown business areas" and "combination business and residential areas."
- (2) No *quota* retail package~~[liquor]~~ or *quota* retail drink license shall be granted or issued to any licensee who proposes to sell *distilled spirits and wine by the*~~[retail]~~ package~~[liquor]~~ or~~[liquor]~~ by the drink at a location within seven hundred (700) feet of the location of any similar establishment in any combination business and residential area, nor shall such license be granted or issued to any licensee who proposes to operate at a location in a combination business and residential area within seven hundred (700) feet of a similar establishment located in a downtown business area. This section shall not affect location of such establishments in downtown business areas of such cities or consolidated local governments.
- (3) The distance between *locations*~~[location]~~ of similar establishments as prescribed by this section shall be measured by following the shortest route of ordinary pedestrian travel along public thoroughfares from the nearest point of any present location of any such similar place of business to the nearest point of any proposed location of any such place of business. The measurement shall be taken from the entrance of the existing licensed premises to the entrance of any proposed location.
- (4) The location of all establishments licensed to sell at retail distilled spirits by the package or by the drink, or both, on June 17, 1954, shall not be affected by the terms of this section and this section shall not apply to existing licensed locations or to the renewal of licenses therefor, or to transfers thereof. The distance limitation prescribed by this section shall not affect any existing licensed location, nor the right of the owner thereof to renew or transfer the license for such location. The location of any such existing license shall not be transferred to a new location in violation of this section, except that the location of any presently existing license or renewal thereof in case of destruction of property or loss of lease through failure of the landlord to renew such lease may be transferred to a location which is not closer than half the distance between the existing licensed premises and the nearest similar licensed premises.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

- (1) *Other provisions of the Kentucky Revised Statutes notwithstanding, in a county containing a city of the third or fourth class, a limited sale precinct election may be held in any precinct containing a horse racetrack. The election shall be conducted in the same manner as provided for in Section 17 of this Act. Upon approval of the proposition, a Nonquota type 1 retail drink license may be issued in accordance with Section 101 of this Act. Nothing in this section shall be construed as authorizing the issuance of any alcoholic beverage licenses other than for the premises of a horse racetrack pursuant to Section 70 of this Act.*
- (2) *A petition seeking a local option election under this section shall state "We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages in (official name of the horse racetrack located in the designated precinct)?'".*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

- (1) *If a licensed small farm winery is located in a dry or moist territory, the small farm winery shall remain dry or moist unless sales at the small farm winery are approved through a local option election held in accordance with the provisions of this section.*

- (2) *A limited sale precinct election may be held in a precinct containing a licensed small farm winery or a proposed small farm winery located in a dry territory. The election shall be held in the same manner as prescribed by KRS 242.020 to 242.120.*
- (3) *A petition seeking a local option election under this section shall state "We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of wine at (name of the licensed or proposed small farm winery or wineries)?'".*
- (4) *If the precinct contains a licensed small farm winery or a proposed small farm winery, the proposition to be voted on in the limited local option election shall state, "Are you in favor of the sale of wine at the (name of the licensed or proposed small farm winery or wineries)?".*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

- (1) *After a special limited local option election that establishes a territory as moist, the territory shall remain dry in every other respect that it was dry before that election, except for the specific moist status authorized by the election proposition.*
- (2) *If any territory votes to become moist under any limited local option election authorized under this chapter, the citizens of that territory may hold a limited local option election on the same moist proposition at a later date to disapprove limited alcohol sales and its moist status.*

➔Section 7. KRS 242.020 is amended to read as follows:

- (1) A petition for an election shall be signed by a number of constitutionally qualified voters of the territory to be affected, equal to twenty-five percent (25%) of the votes cast in the territory at the last preceding general election. The petition may consist of one (1) or more separate units, and shall be filed with the county clerk.
- (2) The petition for election, in addition to the name of the voter, shall state also *the voter's*~~his~~ residence address, ~~Social Security number or~~ date of birth, and the correct date upon which *the voter's*~~his~~ name was signed.
- (3) No signer may withdraw his *or her* name or have it taken from the petition after the petition has been filed. If the name of any person has been placed on the petition for election without *that person's*~~his~~ authority, *the person*~~he~~ may appear before the county judge/executive before the election is ordered and upon proof that *the person's*~~his~~ name was placed on the petition without his *or her* authority, *the person's*~~his~~ name may be eliminated by an order of the county judge/executive. When *the person's*~~his~~ name has been eliminated, he *or she* shall not be counted as a petitioner.
- (4) *A petition seeking a local option election under this section shall state "We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages in (name of territory)?'".* No petition for a referendum shall be circulated for more than six (6) months prior to its filing.
- (5) After a petition for election has been filed, the county judge/executive shall make an order on the order book of the court directing an election to be held in that territory.
- (6) *Substantial compliance with the wording designated under this chapter for a particular type of petition is sufficient to validate the actual wording of the petition.*

➔SECTION 8. KRS 242.070 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

- (1) *Not more than twenty (20) days prior to an election held under this chapter, any group of citizens that in good faith favors or opposes the proposition to be submitted may file with the chair of the county board of elections a petition asking that it be recognized as the committee entitled to certify challengers. If more than one (1) group claims the right to certify challengers, the county board of elections shall promptly decide and publicly announce which committee is entitled to certify challengers. That decision shall not be final, but any aggrieved party may appeal to the county judge/executive, and upon hearing the county judge/executive shall determine which group shall be recognized.*
- (2) (a) *Each committee is entitled to have up to two (2) challengers at each precinct during the holding of the election. Any group of citizens of the county may recommend to a committee a list of persons whom they desire to have appointed as challengers in each precinct in the county. If more than two (2) such lists are furnished, the committee, in making appointments of challengers, shall alternate between the several lists so furnished so as to give to each list an equal amount or proportion of the appointments. The committee shall not appoint more than one (1) challenger for any precinct from*

any one (1) list when multiple lists have been submitted. Any lists of challengers shall be presented to the committee within twenty (20) days after the local option petition is filed with the county clerk, and the committee or its chair shall make and certify the appointments and present a list of certified challengers to the county clerk at least twenty (20) days before the date on which the local option election will be held.

- (b) *The appointment of challengers shall be certified in all respects as challengers at regular elections, except as otherwise provided in this section. The challengers shall be registered voters of the county in which the election is held and shall be subject to the same penalties and possess the same rights and privileges as challengers at regular elections, except that the challengers of one (1) committee may not challenge a person because the person offered to vote in a way favorable to the other committee.*
- (c) *The provisions of this section shall be enforceable against the chair of each committee by a mandatory summary proceeding instituted in the Circuit Court. The order of the court may be reviewed by the Court of Appeals as provided for the granting or dissolving of temporary injunctions.*
- (3) *The challengers shall perform their duties in the same manner and be subject to the same privileges as other challengers at an election including those provided in KRS 117.187 and 117.316 to 117.318.*

➔SECTION 9. KRS 242.090 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

The precinct election officers appointed for a primary and a regular election under KRS 117.045 shall serve as precinct election officers in local option elections. If a local option election is ordered to be held in a year in which there are no elections scheduled or prior to March 20 in a year in which elections are scheduled, precinct election officers shall be appointed in the manner provided under KRS 117.045 for special elections ordered to be held in a year in which there are no elections scheduled.

➔Section 10. KRS 242.120 is amended to read as follows:

- (1) Any qualified voter may demand a recount of the votes or contest the election in the same manner as is provided for the recount of votes or contest of general elections of county officers by KRS 120.155 to 120.185. The members of the county board of election commissioners shall be named as contestees and summons shall be served upon them. Any qualified voter may intervene as contestee by filing a petition to be made a party in the action.
- (2) (a) *The canvass and returns provided for in KRS 242.110 shall constitute the official returns for the local option election, unless before 4 p.m. on the seventh day following the local option election, the county clerk or county board of elections takes notice of a discrepancy in the tally of votes cast in any precinct or number of precincts within the territory voting in the local option election, or a committee favoring or opposing the proposition makes a written request to the county board of elections to check and recanvass the voting machines and absentee ballots of any precinct or any number of precincts involving the local option election. After this time period has elapsed and notice is taken, the county board of elections shall assemble at 9 a.m. on the second day following the filing deadline to request a recanvass, and not sooner, and recheck and recanvass each machine and make a proper return thereof to the county clerk, and the canvass and return shall become the official returns for the election.*
- (b) *In making the recanvass, the county board of elections shall make a record of the number of the seal upon the voting machine and, without unlocking the machine against voting, recanvass the vote cast thereon. If, after a recanvass, it is found that the original canvass of the returns has been correctly made from the machine and that there still remains a discrepancy unaccounted for, this discrepancy shall be noted. If, upon recanvass, it appears that the original canvass of the returns by the election officers was incorrect, the returns and all papers being prepared by the county board of elections shall be corrected accordingly.*
- (c) *The county board of elections shall, immediately upon receipt of a request for a recanvass, notify the committees favoring or opposing the proposition of the time and place of the recanvass. At the recanvass, the committees favoring or opposing the proposition may be present. The county board of elections shall authorize representatives of the news media to observe the recanvass of the votes cast on the voting machine in each precinct. Nothing in this section shall prohibit an individual from requesting, in addition to a recanvass, a recount as authorized by KRS Chapter 120.*

(3) *The State Board of Elections shall prescribe forms to be used by county boards of election to report all recanvassed votes. The form shall include the following information:*

- (a) *The name of the county in which the recanvass was conducted;*
- (b) *The date of the report;*
- (c) *The date of the local option election;*
- (d) *The proposition for which the recanvass was conducted;*
- (e) *The names of the leaders of the committees favoring or opposing the proposition being recanvassed; and*
- (f) *The machine votes, absentee votes, and vote totals for each "yes" or "no" vote.*

The report shall be signed by each member of the county board of elections.

(4) *The county board of elections shall file its recanvass report as prescribed in administrative regulations promulgated by the State Board of Elections in accordance with KRS Chapter 13A.*

(5) *The State Board of Elections shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish the proper procedures for conducting a local option election recanvass for each type of voting system approved by the State Board of Elections and in use in Kentucky.*

➔Section 11. KRS 242.123 is amended to read as follows:

- (1) (a) To promote economic development and tourism in a county containing a *wet or moist* city ~~that has, in whole or in part, voted to discontinue prohibition~~, with the exception of a *moist* territory ~~that has discontinued prohibition~~ in accordance with KRS 242.1292, a local option election for the limited sale of alcoholic beverages may be held in any precinct containing a nine (9) or an eighteen (18) hole golf course that meets United States Golf Association criteria as a regulation golf course, notwithstanding any other provisions of the Kentucky Revised Statutes.
- (b) *A petition seeking a local option election under this section shall state "We the undersigned registered voters hereby petition for an election under this section on the following question: 'Are you in favor of the sale of alcoholic beverages by the drink at (name of golf course) in the (name of precinct)?'".*
- (2) A local option election for the limited sale of alcoholic beverages held under subsection (1) of this section shall be conducted in the same manner specified in KRS 242.020 to 242.120, except that the form of the proposition to be voted upon shall be "Are you in favor of the sale of alcoholic beverages by the drink at (name of golf course) in the (name of precinct)?".
- ~~(3) Upon approval of the proposition, the Department of Alcoholic Beverage Control may issue a license to the golf course for the sale of alcoholic beverages by the drink as provided in KRS 243.030 and KRS 243.040.~~
- ~~(4) No alcoholic beverage license shall be issued to any applicant within the precinct except the nine (9) or the eighteen (18) hole regulation golf course named in the proposition.~~

➔Section 12. KRS 242.1232 is repealed, reenacted as a new section of KRS Chapter 243, and amended to read as follows:

- (1) The Department of Alcoholic Beverage Control shall not issue a license to an applicant authorized to apply for a license to sell alcoholic beverages by the drink under *Section 38 of this Act*~~[KRS 242.123]~~ unless the applicant and the golf course, if different from the applicant, agree to voluntarily comply with the provisions of KRS Chapter 344, whether or not the applicant and the golf course would otherwise be covered by the provisions of KRS Chapter 344.
- (2) The department shall revoke or suspend any license issued under *Section 38 of this Act*~~[KRS 242.123]~~ if the department or the Kentucky Commission on Human Rights makes a finding that the applicant or the golf course, if different from the applicant, has violated a requirement specified in this section.

➔Section 13. KRS 242.1242 is amended to read as follows:

- (1) (a) To promote economic development and tourism in any *dry or moist* county or city in which ~~prohibition is in effect, in whole or in part, and~~ a qualified historic site is located, a local option election for the limited sales of alcoholic beverages by the drink may be held in the precinct of the county where the qualified historic site is located, notwithstanding any other provision of the Kentucky Revised Statutes.

(b) *A petition seeking a local option election under this section shall state "We the undersigned registered voters hereby petition for an election under this section on the following question: 'Are you in favor of the sale of alcoholic beverages by the drink at qualified historic sites in (name of precinct)?'"*

(2) A local option election for the limited sale of alcoholic beverages by the drink held under subsection (1) of this section shall be conducted in the same manner as specified in KRS 242.020; 242.030(1), (2), and (5); 242.040; and 242.060 to 242.120. The form of the proposition to be voted upon shall be "Are you in favor of the sale of alcoholic beverages by the drink at qualified historic sites in the (name of precinct)?"

~~{(3) Upon approval of the proposition, the Department of Alcoholic Beverage Control shall issue a license to qualified historic sites that meet the criteria included in the proposition for the sale of alcoholic beverages by the drink as provided in KRS 243.030.}~~

➔SECTION 14. KRS 242.1244 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) (a) *In order to promote economic development and tourism, other provisions of the Kentucky Revised Statutes notwithstanding, a dry or moist city or county may, by petition in accordance with Section 7 of this Act, hold a local option election on the sale of alcoholic beverages by the drink at restaurants and dining facilities that seat a minimum of fifty (50) persons and derive a minimum of seventy percent (70%) of their gross receipts from the sale of food if alcoholic beverages are purchased in conjunction with a meal. A petition seeking a local option election under this subsection shall state "We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages by the drink at restaurants and dining facilities with a seating capacity of at least fifty (50) persons and which derive at least seventy percent (70%) of their gross receipts from the sale of food if the alcoholic beverage is purchased in conjunction with a meal?'"*

(b) *The election shall be held in accordance with KRS 242.030(1), (2), and (5), 242.040, and 242.060 to 242.120, and the proposition on the ballot shall state "Are you in favor of the sale of alcoholic beverages by the drink in (name of city or county) at restaurants and dining facilities with a seating capacity of at least fifty (50) persons and which derive at least seventy percent (70%) of their gross receipts from the sale of food if the alcoholic beverage is purchased in conjunction with a meal?". If the majority of the votes in an election held pursuant to this subsection are "Yes," licenses may be issued to qualified restaurants and dining facilities, and the licensees may be regulated and taxed in accordance with Section 31 of this Act.*

(2) (a) *In order to promote economic development and tourism, other provisions of the Kentucky Revised Statutes notwithstanding, a dry or moist city or county may, by petition in accordance with Section 7 of this Act, hold a local option election on the sale of alcoholic beverages by the drink at restaurants and dining facilities which seat a minimum of one hundred (100) persons and derive a minimum of seventy percent (70%) of their gross receipts from the sale of food.*

(b) *A petition seeking a local option election under this subsection shall state "We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages by the drink in (name of city or county) at restaurants and dining facilities with a seating capacity of at least one hundred (100) persons and which derive at least seventy percent (70%) of their gross receipts from the sale of food?'"*

(c) *The election shall be held in accordance with KRS 242.030(1), (2), and (5), 242.040, and 242.060 to 242.120, and the proposition on the ballot shall state "Are you in favor of the sale of alcoholic beverages by the drink in (name of city or county) at restaurants and dining facilities with a seating capacity of at least one hundred (100) persons and which derive at least seventy percent (70%) of their gross receipts from the sale of food?". If the majority of the votes in an election held pursuant to this subsection are "Yes," licenses may be issued to qualified restaurants and dining facilities and the licensees may be regulated and taxed in accordance with Section 31 of this Act.*

(3) *A local option proposition under subsection (1) of this section is a separate proposition than a local option proposition held under subsection (2) of this section, so that a separate limited local option election is required for sales under each subsection. A territory may, by separate limited local option elections, simultaneously allow alcoholic beverage sales under subsections (1) and (2) of this section. A territory may also hold a limited local option election to allow alcoholic beverage sales under either subsection (1) or (2) of this section without authorizing alcoholic beverage sales under the other subsection.*

➔SECTION 15. KRS 242.125 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

- (1) *As used in this section, "city" or "cities" means a city or cities of the first four (4) classes.*
- (2) *A city shall not be deemed to be the "same territory" as that of a county within the meaning of KRS 242.030(5). A city shall have the right to determine its wet or dry status separate from a county's wet or dry status.*
- (3) *A dry or moist city may hold a local option election to take the sense of the city residents for establishing the city as a wet territory. If the majority of the votes are in favor of establishing the city as a wet territory, the whole city shall become wet territory by application of Section 21 of this Act.*
- (4) *Once a city votes under this section to become wet territory separate from the county, a countywide local option election establishing the county as dry or moist territory shall not cause the city to become dry or moist territory.*
- (5) *A wet city may hold a local option election to take the sense of the city residents for establishing the city as a dry or moist territory. If the majority of the votes are in favor of establishing the city as a dry or moist territory, the whole city shall become dry or moist territory by application of Section 20 of this Act.*
- (6) *If a city votes to become wet territory, a precinct of the city may hold a later election in conformity with this chapter to take the sense of the city precinct residents for establishing the city precinct as a dry or moist territory. If the majority of the votes are in favor of establishing the city precinct as a dry or moist territory, the city precinct shall become dry or moist territory by application of Section 20 of this Act.*
- (7) *If a city precinct becomes dry or moist territory separate from a wet city, the city precinct may hold a later election in conformity with this chapter, to take the sense of the city precinct residents for reestablishing the city precinct as a wet territory. If the majority of the votes are in favor of reestablishing the city precinct as a wet territory, the city precinct shall become wet territory by application of Section 21 of this Act.*
- (8) *A dry or moist county containing a wet city may hold a local option election to take the sense of the county residents for establishing the county as a wet territory. If the majority of the votes are in favor of establishing the county as a wet territory, the whole county shall become wet territory by application of Section 21 of this Act.*
- (9) *A wet county containing a wet city by separate city election under this section may hold a local option election to take the sense of the county residents for establishing the county as a dry or moist territory. If the majority of the votes are in favor of establishing the county as a dry or moist territory, the county territory outside the wet city limits shall become dry or moist territory by application of Section 20 of this Act.*
- (10) *Residents of any city, including a separately wet city, are residents of the county, and shall therefore be permitted to sign any petitions for, and vote in, county local option elections under this section.*
- (11) *A petition seeking a local option election under this section shall state "We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages in (name of county, city, or precinct)?'".*
- (12) *In any local option election under this section, the proposition to be voted upon shall state "Are you in favor of the sale of alcoholic beverages in (name of county, city, or city precinct)?".*
- (13) *The status of any moist territory approving limited alcoholic beverage sales through a previous election held under Sections 5, 11, 13, and 14 of this Act, or any other limited local option election, shall not be affected by any outcome of any election held under this section. A territory's moist status may only be changed by a local option election on the original same moist election proposition.*

➔Section 16. KRS 242.127 is amended to read as follows:

- (1) In any *wet* city of the fourth class [~~in which prohibition is not in effect~~], an election may be held in the manner prescribed in *this chapter* [~~KRS Chapter 242~~] to take the sense of the people of the city as to the sale of distilled spirits or wine by the drink for consumption on the premises in the city.
- (2) An election held pursuant to this section shall be city-wide.

➔Section 17. KRS 242.1292 is amended to read as follows:

- (1) The provisions of this section shall be applicable in any city of the second class notwithstanding any other provisions of this chapter relating to the *wet or moist status* [~~discontinuance of prohibition~~] in any county, city, or territory which may be to the contrary.

- (2) In any city of the second class ~~that is dry or moist~~~~[in which prohibition is in effect]~~ in all or part of the city, and upon a determination that an economic hardship exists in one (1) or more of the voting precincts of the city in the manner prescribed in subsection (11) of this section, the governing body of the city shall by ordinance designate the precinct or precincts as a limited sale precinct or precincts and shall provide for an election to be held in the precinct or precincts to take the sense of the people of each precinct as to ~~making~~~~[the discontinuance of prohibition in]~~ that precinct *wet territory*. *A petition seeking a local option election under this section shall state "We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages in (official name of precinct)?'"*.
- (3) The election shall be held in the precinct or precincts in the manner prescribed in this chapter. The election shall not be deemed to be an election in the "same territory" within the meaning of subsection (5) of KRS 242.030~~;~~ ~~however, no election on the same question shall be held in the same precinct or precincts more than once every five (5) years~~.
- (4) The question shall be presented to the voters in conformance with the requirements of KRS 242.050 except that the form of the proposition shall be, "Are you in favor of the sale of alcoholic beverages in (official name and designation of precinct)?".
- (5) If a majority of the votes cast in any limited sale precinct in which an election is held under this section are in favor of the sale of alcoholic beverages in that precinct, the governing body of the city shall by ordinance create or provide for the office of city alcoholic beverage control administrator.
- (6) The governing body of the city shall adopt the comprehensive regulatory ordinance covering the licensing and operation of establishments for the sale of alcoholic beverages, including, but not limited to, distilled spirits and malt beverages, within a limited sale precinct as set forth in this section. In relation to the ordinances established by a city of the second class under this subsection and subsection (7) of this section, review by the board, if any, shall be limited to a determination that the ordinances do not exceed the limits established for sale by statute, or administrative regulations promulgated by the board under those statutes. In its discretion the governing body shall provide without review by the board that:
- (a) Only three (3) licenses permitting the package sale at retail of alcoholic beverages shall be granted within the territorial limits of any limited sale precinct.
 - (b) Only four (4) licenses to sell alcoholic beverages by the drink for consumption on the premises by the general public shall be granted in any one (1) limited sale precinct. One (1) license in each limited sale precinct may be reserved for any newly established hotel, motel, or inn containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons. The remaining three (3) licenses may be granted to a hotel, motel, or inn meeting the aforesaid requirements or to bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons. Additional licenses to sell alcoholic beverages by the drink for consumption on the premises may be granted to social membership clubs established and maintained for the benefit of members of bona fide fraternal or veterans organizations.
- (7) The governing body of the city may also incorporate in the regulatory ordinance any other reasonable rules and regulations as it deems, necessary or desirable for the proper administration and enforcement of this section, for the maintenance of public order in a limited sale precinct, and for the issuance of any licenses permitted by KRS 243.070.
- (8) Notwithstanding any limitations imposed on the city's taxing or licensing power by KRS 243.070, ~~once upon the discontinuance of prohibition in]~~ any limited sale precinct *has been established as wet territory*, the governing body of the city may impose a regulatory license fee upon the gross receipts of each establishment located therein and licensed to sell alcoholic beverages. The regulatory license fee may be levied at the beginning of each city budget period at the percentage rate as shall be reasonably estimated to fully reimburse the city for the estimated costs of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the city. The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against the fee shall be allowed in an amount equal to any licenses or fees imposed by the city pursuant to KRS 243.070.
- (9) Subject to the limitation imposed by subsection (3) of this section, no provision contained in this section providing for the establishment of a limited sale precinct shall preclude or abridge the right of the constitutionally qualified voters of the precinct to petition for a subsequent election on the same question.
- (10) If an election is held pursuant to other provisions of KRS Chapter 242 in the city or the county in which a limited sale precinct is located for the purpose of taking the sense of the voters upon the question of ~~adopting~~

~~or repealing prohibition for~~ the entire city or the entire county **becoming dry, wet, or moist**, the status of that question in a limited sale precinct shall be determined in the following manner:

- (a) The status of a limited sale precinct shall not be affected by any election for the entire city or the entire county if the limited sale precinct was established less than five (5) years prior to the date of the proposed election for the entire city or the entire county and if so the voters of any limited sale precinct shall not vote in the election.
 - (b) If the limited sale precinct was established more than five (5) years prior to the date of the proposed election for the entire city or the entire county, the voters within each limited sale precinct shall be presented with the question, "Are you in favor of continuing the sale of alcoholic beverages in (official name and designation of precinct) as a limited sale precinct?". No other question shall be presented to the voters of any limited sale precinct.
 - (c) The votes of each limited sale precinct shall be counted separately, and, if a majority of the votes cast in the limited sale precinct are in favor of continuing the sale of alcoholic beverages therein as a limited sale precinct, then the status shall continue within the precinct, except that if the city or the county in which the limited sale precinct is located votes ~~wet against prohibition~~ in the remainder of the city or the county, the limited sale precinct status of any precinct may be terminated by the governing body of the city or the county and thereafter the status of the precinct shall be the same as that in effect for the remainder of the city or the county.
- (11) Any precinct located entirely within any city of the second class **that is dry**~~[in which prohibition is in effect]~~ in all or part of the city shall be designated as a limited sale precinct by the governing body of the city if:
- (a) The governing body determines to its satisfaction that the general trade, business, and economy of one (1) or more of the precincts within the city is substantially, adversely affected by the legal sale of alcoholic beverages in any neighboring or adjoining state, county, city, town, district, or precinct. For the purpose of making this determination, the governing body may hold hearings, examine witnesses, or receive evidence as it believes necessary or desirable for the purpose; or
 - (b) The governing body receives a petition signed by a number of constitutionally qualified voters of a precinct equal to thirty-three percent (33%) of the votes cast in the precinct at the last preceding general election requesting the governing body of the city to designate the precinct as a limited sale precinct. The petition may consist of one (1) or more separate units and shall be filed with the mayor of the city. In addition to the name of the voter, the petition shall also state his or her post office address and the correct date upon which his or her name is signed. Upon receipt of the petition, the mayor shall present it to the governing body of the city at its next regularly scheduled meeting and, after verifying that the petition is in compliance with the requirements of this section, the governing body shall forthwith by ordinance designate the precinct to be a limited sale precinct.

➔Section 18. KRS 242.1295 is repealed, reenacted as a new section of KRS Chapter 243, and amended to read as follows:

An NQ2 retail drink~~[In no event shall a]~~ license **shall not** be issued for any restaurant or any dining facility in a hotel~~[, motel, or inn]~~, unless the applicant can demonstrate to the director or administrator that gross receipts of the restaurant or the dining facility from the sale of food for consumption on the premises is reasonably estimated to be not less than fifty percent (50%) of the total food and **alcoholic** beverage receipts of ~~the [such]~~ restaurant or dining facility for the license period.

➔Section 19. KRS 242.1297 is amended to read as follows:

Notwithstanding any law to the contrary, a precinct located in a city of the third class where the entire city is wet territory, may have an election to take the sense of the voters of the precinct on the **wet or dry status of**~~[application of KRS 242.220 to 242.430 in]~~ the precinct. The election shall be held in the precinct in the manner prescribed in KRS 242.020 to 242.040 and KRS 242.060 to 242.120. The election shall not be deemed to be an election in the "same territory" within the meaning of KRS 242.030(5)~~]; however, no election shall be held in the same precinct more often than once every five (5) years].~~ The question shall be presented to the voters in conformance with the requirements of KRS 242.050 except that the form of the proposition shall be "Are you in favor of the sale of alcoholic beverages in (official name and designation of precinct)?".

➔Section 20. KRS 242.190 is amended to read as follows:

- (1) When a majority of the votes cast at a local option election are in favor of **establishing dry**~~[prohibition in the]~~ territory, ~~the territory~~~~[prohibition]~~ shall be **dry**~~[in force and effect]~~ at the expiration of sixty (60) days from the

date of the entry of the certificate of the county board of election commissioners in the order book of the county judge/executive.

- (2) Upon the annexation of any local option territory by a city, either before July 15, 1980, or subsequent thereto, the annexed territory shall assume the same local option status as the local option status of the annexing city. Nothing in this section shall impair the right of any precinct in the annexed territory to determine its own status with respect to the legal sales of alcoholic beverages in accordance with the provisions of KRS Chapter 242.

➔Section 21. KRS 242.200 is amended to read as follows:

When a majority of the votes cast at an election are in favor of *establishing wet or moist*~~{the discontinuance of prohibition in a}~~ territory, *the territory shall be wet or moist*~~{prohibition shall cease to be in force and effect}~~ at the expiration of sixty (60) days from the date of the entry of the certificate of the county board of election commissioners in the order book of the county judge/executive.

➔Section 22. KRS 242.220 is amended to read as follows:

- (1) After *a territory becomes dry or moist, any previously issued license that is no longer available in that territory shall become invalid*~~{prohibition goes into effect, no license formerly issued in that territory shall be valid}~~, but the licensee shall be entitled to recover from the county or city to which the license money was paid, a part of the license money proportionate to the unexpired period of the license.
- (2) *No retail alcoholic beverage license shall be issued in any dry territory.*

➔Section 23. KRS 242.230 is amended to read as follows:

- (1) No person in dry territory shall sell, barter, loan, give, procure for, or furnish another, or keep or transport for sale, barter, or loan, directly or indirectly, any alcoholic beverage.
- (2) *No person in moist territory shall sell, barter, loan, give, procure for, or furnish another, or keep or transport for sale, barter, or loan, directly or indirectly, any alcoholic beverage unless the sale of that alcoholic beverage has been specifically authorized in that moist territory under a limited local option election.*
- (3) No person shall possess any alcoholic beverage unless it has been lawfully acquired and is intended to be used lawfully, and in any action the defendant shall have the burden of proving that the alcoholic beverages found in his *or her* possession were lawfully acquired and were intended for lawful use.

➔Section 24. KRS 242.250 is amended to read as follows:

- (1) No person, while representing either the buyer or seller, shall distribute, solicit, or receive contracts, proposals, or orders for the purchase or sale of any alcoholic beverages, or distribute any handbills or posters advertising them in dry territory.
- (2) Each act of distributing, soliciting, or receiving contracts, proposals, or orders as denounced in subsection (1), and each day in which advertising matter is distributed, shall constitute a separate offense.
- (3) This chapter shall not prevent any manufacturer of or wholesale dealer in alcoholic beverages, or any authorized agent of either from making contracts of barrel, case, or package lots in any dry *or moist* territory, if his *or her* distilleries, breweries, wineries, or warehouses are located in that territory and his *or her* products are to be shipped into territory, either within or without the state, where alcoholic beverages may lawfully be sold.
- (4) *Subsections (1) and (2) of this section shall also apply to moist territory unless the sale of the alcoholic beverage in question has been specifically authorized in that moist territory under a limited local option election.*

➔Section 25. KRS 242.260 is amended to read as follows:

- (1) It shall be unlawful for any person or public or private carrier to bring into, transfer to another, deliver, or distribute in any *dry or moist*~~{local option}~~ territory, *except as provided in subsection (2) of this section*, any alcoholic beverage, regardless of *its*~~{the}~~ name~~{by which it may be called}~~. Each package of such beverage so brought, transferred, or delivered in such territory shall constitute a separate offense.~~{Provided, however, that}~~ Nothing *in this section*~~{herein}~~ shall be construed to prevent any distiller or manufacturer or any authorized agent of a distiller, manufacturer, or wholesale dealer from transporting or causing to be transported by a

licensed carrier any alcoholic beverage to their distilleries, breweries, wineries, or warehouses where the sale of such beverage may be lawful, either in or out of the state.

- (2) ***Subsection (1) of this section shall also apply to any moist territory unless the sale of the alcoholic beverage in question has been specifically authorized in that moist territory under a limited local option election.***

➔Section 26. KRS 242.270 is amended to read as follows:

- (1) No person shall sell or deliver any alcoholic beverages that are to be paid for on delivery, in dry territory.
- (2) Such transactions shall be deemed sales at the place where the money is paid or the goods delivered.
- (3) ***This section shall also apply to the sale or delivery of any alcoholic beverages that are to be paid for on delivery in moist territory unless the sale of the alcoholic beverage in question has been specifically authorized in that moist territory under a limited local option election.***

➔Section 27. KRS 242.280 is amended to read as follows:

- (1) It shall be unlawful for any person of dry territory to receive or accept any alcoholic beverage from a common carrier or from any person who has transported the beverage in or into such territory for compensation, hire, or profit of any kind whatsoever either directly or indirectly. Each and every package of said alcoholic beverage so received or accepted shall constitute a separate offense. ~~Provided, however, that~~ Nothing ***in this section*** ~~herein~~ shall be construed to prevent any distiller or manufacturer of alcoholic beverages or any authorized agent of a distiller or manufacturer or wholesale dealer from receiving or accepting any alcoholic beverages which are to be sold in a territory where the sale of such beverages may be lawful either in or out of the state.
- (2) ***Subsection (1) of this section shall apply to any moist territory unless the sale of the alcoholic beverage in question has been specifically authorized in that moist territory under a limited local option election.***

➔Section 28. KRS 242.290 is amended to read as follows:

KRS 242.260 and 242.280 shall not apply to the transportation of alcoholic beverages through dry ***or moist*** territory to a point in some other state, or to a point in this state where alcoholic beverages may be lawfully sold; or to the receipt or acceptance by a common carrier from a manufacturer for transportation to a point in another state or to a point in this state where alcoholic beverages may lawfully be sold.

➔Section 29. KRS 242.300 is amended to read as follows:

The normal restrictions applicable in dry territory ~~[KRS 242.220 to 242.430]~~ shall not apply to any manufacturer who in good faith and in the usual course of trade sells alcoholic beverages of ***the manufacturer's*** ~~his~~ own make, at his ***or her*** manufactory, in quantities of not less than three (3) gallons delivered at one time for immediate transportation, to a point in some other state, or to a point in this state where alcoholic beverages may be lawfully sold.

➔Section 30. KRS 242.430 is amended to read as follows:

The indictment charging the commission of an offense under this chapter need not allege that a vote was taken or an election held in the territory where the offense is alleged to have been committed, but it may simply allege that the act charged was committed in dry ***or moist*** territory and was a violation of ***this chapter*** ~~[the prohibition statutes]~~.

➔SECTION 31. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

- (1) ***This section shall apply to any wet city of the fourth class or county containing a wet city of the fourth class, notwithstanding any other provisions of this chapter relating to the sales of alcoholic beverages by the drink for consumption on the premises.***
- (2) ***Upon a determination by the legislative body that an economic hardship exists within the wet city or county and that the sale of alcoholic beverages by the drink could aid economic growth, the legislative body may enact a comprehensive, regulatory ordinance covering the licensing and operation of hotels, motels, inns, or restaurants for the sale of alcoholic beverages by the drink for consumption on the premises.***
- (3) ***Nonquota type 2 (NQ2) retail drink licenses authorizing all types of alcoholic beverage sales shall only be issued to hotels and restaurants having dining facilities for not less than one hundred (100) persons.***
- (4) ***The city or county legislative body may provide for the issuance of any licenses permitted by Section 55 of this Act, or the issuance of any other reasonable administrative regulations as may be necessary for the***

enforcement or administration of this section, except that any administrative regulation adopted shall conform to the requirements of KRS 241.190.

➔SECTION 32. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

- (1) *A malt beverage storage license may be issued as a supplementary license to a distributor's license, a nonquota retail malt beverage package license, a Nonquota type 4 license, or a retail malt beverage drink license. A malt beverage storage license may also be issued as a primary or supplementary license in conformity with administrative regulations promulgated by the department.*
- (2) *The holder of a malt beverage storage license may:*
 - (a) *Store malt beverages at the storage licensed premises convenient to his or her regular retail malt beverage licensed premises;*
 - (b) *Transport the malt beverages as belonging to the holder of the license to and from the warehouse by way of the nearest route to his or her regular licensed retail malt beverage premises, if the licensee sells no malt beverages except at his or her regular malt beverage licensed premises;*
 - (c) *Transport and store malt beverages belonging to the distributor to, from, and at the storage licensed premises; and*
 - (d) *Conduct business as authorized by the department through the promulgation of administrative regulations.*
- (3) *The malt beverage administrator may issue a temporary storage license to a licensed distributor for storage of malt beverages if there is an emergency. The malt beverage administrator shall have sole discretion to determine the existence of any emergency.*

➔SECTION 33. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

- (1) *A distilled spirits and wine storage license may be issued as a primary license or as a supplementary license to the holder of a distiller's or rectifier's license.*
- (2) *A distilled spirits and wine storage license may be issued to any person or entity operating a bonded warehouse for distilled spirits, and who does not at the same time, and for the same premises, hold a federal operating permit for distilling purposes, but who possesses only a federal operating permit for a bonded warehouse for distilled spirits as defined by federal law and the Internal Revenue Code.*
- (3) *A licensee under this section may operate a bonded warehouse or warehouses for premises specifically designated, but this license shall become void if a federal operating permit for distilling purposes is issued for the same premises, and shall remain void while the federal permit remains in effect. Upon the granting of a federal operating permit for distilling purposes, the licensee of the premises previously licensed under this section shall obtain a license as set out in subsection (1) of Section 45 of this Act.*
- (4) *A distilled spirits and wine storage license may be issued to persons or entities not otherwise entitled under Kentucky law to store or warehouse distilled spirits or wine, but who are so authorized by the federal government. The license shall authorize the licensee to operate a warehouse or place of storage for distilled spirits or wine on the premises specifically designated.*

➔SECTION 34. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

- (1) *An out-of-state brewer, distributor, importer for a brewer, or importer of a non-United States brand of malt beverage may obtain a malt beverage supplier's license for importing a malt beverage product into Kentucky if it is:*
 - (a) *Licensed to do business in the state in which it is located; and*
 - (b) *Registered with the Kentucky Department of Revenue.*
- (2) *An entity listed in subsection (1) of this section who wishes to import more than twenty-five thousand (25,000) barrels or seven hundred seventy-five thousand (775,000) gallons of malt beverage shall:*
 - (a) *Apply for an out-of-state malt beverage supplier's license on an application provided by the department;*
 - (b) *Submit documentation required by the application; and*
 - (c) *Pay the annual fee required by Section 51 of this Act.*

(3) *An entity listed in subsection (1) of this section who wishes to import less than twenty-five thousand (25,000) barrels or seven hundred seventy-five thousand (775,000) gallons of malt beverage shall:*

- (a) *Apply for a limited out-of-state malt beverage supplier's license on an application provided by the department;*
- (b) *Submit documentation required by the application; and*
- (c) *Pay an annual fee required by Section 51 of this Act.*

(4) *An out-of-state applicant shall be exempt from the notice requirements of Section 74 of this Act.*

➔SECTION 35. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

(1) *An out-of-state distiller, wholesaler, rectifier, winery, small farm winery, importer for a distillery, winery, or small farm winery, or importer of a non-United States brand of distilled spirits or wine may obtain a distilled spirits and wine supplier's license for importing distilled spirits and wine into Kentucky if it is:*

- (a) *Licensed to do business in the state in which it is located; and*
- (b) *Registered with the Kentucky Department of Revenue.*

(2) *An entity listed in subsection (1) of this section who wishes to import more than fifty thousand (50,000) gallons of distilled spirits or wine shall:*

- (a) *Apply for an out-of-state distilled spirits and wine supplier's license on an application provided by the department;*
- (b) *Submit documentation required by the application; and*
- (c) *Pay the annual fee required by Section 45 of this Act.*

(3) *An entity listed in subsection (1) of this section who wishes to import at least two thousand (2,000) gallons but less than fifty thousand (50,000) gallons of distilled spirits or wine shall:*

- (a) *Apply for a limited out-of-state distilled spirits and wine supplier's license on an application provided by the department;*
- (b) *Submit documentation required by the application; and*
- (c) *Pay the annual fee required by Section 45 of this Act.*

(4) *An entity listed in subsection (1) of this section who wishes to import less than two thousand (2,000) gallons of distilled spirits or wine shall:*

- (a) *Apply for a micro out-of-state distilled spirits and wine supplier's license on an application provided by the department;*
- (b) *Submit documentation required by the application; and*
- (c) *Pay the annual fee required by Section 45 of this Act.*

(5) *An out-of-state applicant shall be exempt from the notice requirements of Section 74 of this Act.*

➔SECTION 36. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

(1) (a) *A transporter's license may be issued as a primary license to a person engaged in business as a common carrier. A transporter's licensee may transport alcoholic beverages to or from the licensed premises of any licensee under this chapter if both the consignor and consignee in each case are authorized by the law of the states of their residence to sell, purchase, ship, or receive the alcoholic beverages.*

- (b) *A transporter's license shall be issued only to persons authorized by proper certificate from the Department of Vehicle Regulation to engage in the business of a common carrier. Holders of a transporter's license issued under this section and Section 66 of this Act may transport alcoholic beverages in Kentucky only in conformity with the provisions of their common carrier certificate issued by the Transportation Cabinet. Such licenses are specifically prohibited from transporting alcoholic beverages anywhere within the state except upon the route authorized by their respective common carrier certificates.*

- (a) *No person, firm, or corporation operating motor vehicles for hire over the highways of this state, under authority of a Certificate of Convenience and Necessity issued by the Transportation Cabinet, covering the same territory or highways designated in the certificate as irregular common carrier issued by the Interstate Commerce Commission shall be authorized or permitted to transport any alcoholic beverages in this state until the carrier has procured an appropriate transporter's license from the department, and filed with the department a statement of the proposed route of the territory over which the carrier proposes to transport alcoholic beverages.*
 - (b) *The statement of route shall be accompanied by an exhibit consisting of a Kentucky road map with the proposed route clearly indicated by suitable marking.*
 - (c) *The proposed route shall be restricted to designated federal highways except as to access side roads to distilleries and terminals. The side roads shall be the nearest and most traveled route from the distillery to the designated federal highway, and shall be no more than seven (7) miles from the federal highway.*
 - (d) *When the carrier has obtained a transporter's license for distilled spirits and wine from the department for transportation over designated routes, pursuant to a regular common carrier certificate, no additional license shall be required upon filing of the designated routes and exhibit required under this section.*
 - (e) *The license will be issued to a person legally transporting alcoholic beverages to allow transportation of the beverages over numbered Kentucky state highways, or officially prescribed detours from those highways.*
- (3) *A transporter's license may be issued to a steam, diesel, or gasoline boatlines, desiring to haul alcoholic beverages in barrels or in unbroken case lots, if it maintains published river-rail rates, but licensees shall not be restricted to routes covered by such river-rail rates.*
- (4) *A transporter's license may be issued as a primary or supplementary license to any nonresident distiller, winery, or wholesaler who is authorized by the state of his or her residence and the federal government to receive and transport distilled spirits and wine. The nonresident licensee may transport for himself or herself only, distilled spirits and wine from the licensed premises of a Kentucky manufacturer, distiller, winery, or rectifier to the transporter's licensed premises only, and beverages on which the Kentucky tax has been paid may be transported from the licensed premises of a nonresident distiller, winery, or rectifier to wholesaler licensees within the Commonwealth of Kentucky, if he or she transports the alcoholic beverages in a truck or other vehicle owned and operated by a nonresident licensee. Each truck or vehicle shall have affixed to its side a sign in uniform letters of at least three (3) inches high containing the name of the company and the state and federal permit numbers for the vehicles.*
- (5) *An application for a transporter's license shall include a statement that the applicant, if granted a license, will allow any authorized field representative of the department to stop and examine the cargo of any truck or vehicle in which alcoholic beverages are being transported within the boundaries of the Commonwealth of Kentucky.*
- (6) *All persons or entities holding a transporter's license shall be required to file reports with the Department of Revenue on or before the fifteenth of each month, covering the preceding month's transactions. Only one (1) report may be submitted to cover each unit shipment of alcoholic beverages transported into and from the state. Each Department of Revenue report shall show the state license number, the name and address of consignor and consignee, shipping date, delivery date, number of cases according to size contained in each shipment, and shall be signed by an official of the company handling the shipment.*
- (7) *A transporter's license may be issued as a primary license to a person or entity wishing to transport distilled spirits and wine through this state over the public highways. A transporter's license authorizes the holder to transport distilled spirits and wine during the period of the license. The driver of a vehicle so transporting shall be in the possession of a copy of the license and bills of lading, consignment, or other evidence of ownership of the cargo which tally with the cargo. Failure of the driver to be in possession of these documents shall be prima facie evidence of illegal trafficking. The transporting of distilled spirits and wine without a transporter's license shall subject the offending party to the penalties established in Section 80 of this Act.*
- (8) *A transporter's license may be issued as a primary license to a person wishing to transfer distilled spirits or wine from a licensed transporter to one (1) truck from another. The licensee may receive from and tender to*

transporters duly licensed under this section and Section 66 of this Act, those distilled spirits and wine consigned to licensees under Section 44 of this Act, in the Commonwealth of Kentucky.

- (9) (a) *A transporter's license may be issued as a primary license to a person or entity wishing to export malt beverages from the licensed premises of a Kentucky brewer or from the warehouse of a licensed Kentucky distributor, or from another state, through Kentucky. A transporter's license may be issued to an applicant who holds a beer wholesaler or distributor's license issued by the state into which malt beverages are to be transported, or who is licensed by the state to transport those malt beverages.*
- (b) *Applicants for the transporter's license under this subsection, and their employees, may be exempt from the residence requirements of KRS 243.100 and Section 84 of this Act.*
- (c) *A transporter's license shall authorize the holder to transport malt beverages from the licensed premises of a Kentucky brewer or from the warehouse of the licensed Kentucky distributor, or from another state, through Kentucky, if the licensee transports the malt beverages in a truck or other vehicle carrying a transporter's license and owned and operated by its employees.*
- (10) *A transporter's license may be issued as a primary or supplemental license to a person, except a retailer, wishing to transport malt beverages for hire. A transporter's license shall authorize the licensee to transport malt beverages for hire to or from the licensed premises of any licensee, except retailers, if both the consignor and consignee in each case are authorized by the law of the states of their residence to sell, purchase, ship, or receive the malt beverages. A transporter licensee may transport malt beverages for hire to or from the licensed premises of any licensee under Section 51 of this Act in counties containing a population of less than forty thousand (40,000) if both the consignor and consignee in each case are authorized by the laws of the states of their residence to sell, purchase, ship, or receive the malt beverages.*

➔SECTION 37. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

- (1) *A limited restaurant license may be issued to an establishment meeting the criteria established in subsection (31) of Section 1 of this Act as long as the establishment is within:*
- (a) *Any wet territory; or*
- (b) *Any moist precinct that has authorized the sale of alcoholic beverages under Section 14 of this Act.*
- (2) *A limited restaurant license shall authorize the licensee to purchase, receive, possess, and sell distilled spirits, wine, and malt beverages at retail by the drink for consumption on the licensed premises. The licensee shall purchase distilled spirits, wine, and malt beverages only from licensed wholesalers or distributors. The license shall not authorize the licensee to sell distilled spirits, wine, or malt beverages by the package.*
- (3) *The holder of a limited restaurant license shall maintain at least seventy percent (70%) of its gross income from the sale of food and maintain the minimum applicable seating requirement required for the type of limited restaurant license.*
- (4) (a) *A limited restaurant as defined by subsection (31)(b) of Section 1 of this Act shall:*
1. *Only sell distilled spirits, wine, and malt beverages incidental to the sale of a meal; and*
 2. *Not have an open bar and shall not sell distilled spirits, wine, and malt beverages to any person who has not purchased or does not purchase a meal.*
- (b) *Distilled spirits, wine, and malt beverages shall be deemed to be purchased in conjunction with a meal if the distilled spirits, wine, and malt beverages are served after the meal is ordered and no more than one-half (1/2) hour after the meal is completed.*

➔SECTION 38. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

- (1) *A limited golf course license may be issued to an establishment that is a nine (9) or an eighteen (18) hole golf course that meets United States Golf Association criteria as a regulation golf course as long as the establishment is within:*
- (a) *Any wet territory; or*
- (b) *Any moist precinct that has specifically authorized the sale of distilled spirits, wine, and malt beverages at that establishment under Section 11 of this Act.*

- (2) *A limited golf course license shall authorize the licensee to purchase, receive, possess, and sell distilled spirits, wine, and malt beverages at retail by the drink for consumption on the licensed premises. The licensee shall purchase distilled spirits, wine, and malt beverages only from licensed wholesalers or distributors. The license shall not authorize the licensee to sell distilled spirits, wine, and malt beverages by the package.*

➔SECTION 39. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

The department may issue an air transporter's license to a commercial airline system, a charter flight system, or a commercial cargo system, upon the payment of the required fee. This license may be renewed annually. The license shall authorize the licensee to transport distilled spirits, wine, and malt beverages, into and out of Kentucky, upon regularly scheduled or charter flights of the licensee. The license shall authorize, for the purpose of transportation, the storage of distilled spirits, wine, and malt beverages at a location or locations, if operating from more than one (1) airport in Kentucky, as designated on the license application. This license shall authorize an airline to transport if both the consignor and consignee in each case are authorized by the laws of the states of their residence to sell, purchase, ship, or receive the distilled spirits, wine, and malt beverages.

➔SECTION 40. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

- (1) *A "Nonquota type I" or "NQI" retail drink license may be issued to:*
- (a) *A convention center or a convention hotel complex;*
 - (b) *A horse racetrack;*
 - (c) *An automobile racetrack;*
 - (d) *A railroad system; or*
 - (e) *A commercial airlines system or charter flight system.*
- (2) (a) *The department may issue an NQI retail drink license to a railroad company operating a railroad system in the state upon the payment of the required fee. This license tax shall be in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of distilled spirits, wine, and malt beverages.*
- (b) *Notwithstanding KRS Chapter 242, an NQI retail drink issued to a railroad system shall authorize the holder to sell distilled spirits, wine, and malt beverages at retail by the drink or by the package upon any train, that includes a dining car, operated by the licensee in the state. Sales shall be made only while the train is in motion. Notwithstanding any other law, holders of such licenses may retail alcoholic beverages in unbroken packages smaller than two hundred (200) milliliters of distilled spirits and one hundred (100) milliliters of wine and may purchase alcoholic beverages from nonresidents.*
- (3) (a) *The department may issue an NQI retail drink license to a commercial airlines system or charter flight system upon the payment of the required fee. This license fee shall be in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of distilled spirits, wine, or malt beverages, and the license may be renewed annually.*
- (b) *An NQI retail drink license issued to a commercial airlines system or charter flight system shall authorize the holder to sell distilled spirits and wine by the drink and by miniature bottle, and malt beverages, upon regularly scheduled or charter flights of the licensee, in and out of Kentucky. The license shall authorize the licensee to store distilled spirits, wine, and malt beverages for retail sale at a location or locations, if operating from more than one (1) airport in Kentucky, as designated on the license application.*
- (4) *An NQI retail drink license issued to a convention center or convention hotel complex shall authorize the retail sale of distilled spirits, wine, and malt beverages for consumption on the premises of the convention center or hotel. The license shall permit all distilled spirits, wine, or malt beverage sales on the premises without additional supplemental licenses, except that a separate hotel in-room service license shall be required, where applicable. An NQI retail drink license issued to a convention center or convention hotel complex license shall not be transferable to other premises. This subsection shall not apply to an NQI retail drink license issued to or renewed for a convention center, other than those in a city of the first class or a county containing a city of the first class or a consolidated local government, if the original license was issued prior to July 15, 1998.*

- (5) *An NQ1 retail drink license issued to an automobile racetrack shall authorize the holder to sell distilled spirits, wine, and malt beverages by the drink for consumption on the premises of an automobile racetrack. The license permits all distilled spirits, wine, and malt beverage sales on the premises without additional supplemental licenses.*
- (6) *An NQ1 retail drink license issued to a horse racetrack shall authorize the holder to sell distilled spirits, wine, and malt beverages by the drink for consumption on the premises of a horse racetrack. The license permits all distilled spirits, wine, or malt beverage sales on the premises without additional supplemental licenses.*

➔SECTION 41. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

- (1) *A "Nonquota type 2" or "NQ2" retail drink license may be issued to:*
- (a) *A hotel that:*
1. *Contains at least fifty (50) sleeping units;*
 2. *Contains dining facilities for at least one hundred (100) persons; and*
 3. *Receives from its total food and beverage sales at least fifty percent (50%) of its gross receipts from the sale of food;*
- (b) *A restaurant with a minimum seating for fifty (50) consumers at tables;*
- (c) *An airport; or*
- (d) *A riverboat.*
- (2) *A qualifying hotel, restaurant with seating for at least one hundred (100) consumers at tables, airport, or riverboat holding an NQ2 retail drink license may purchase, receive, possess, and sell distilled spirits, wine, and malt beverages at retail by the drink for consumption on the licensed premises. The licensee shall purchase distilled spirits, wine, or malt beverages only from licensed wholesalers or distributors. An NQ2 retail drink license shall not authorize the licensee to sell distilled spirits, wine, or malt beverages by the package. The holder of an NQ2 retail drink license shall comply with the requirements of Section 69 of this Act.*
- (3) *A restaurant holding an NQ2 retail drink license which has seating for more than fifty (50) but less than one hundred (100) consumers at tables may only purchase, receive, possess, and sell wine and malt beverages at retail by the drink for consumption on the licensed premises. The licensee shall purchase wine and malt beverages only from licensed wholesalers or distributors. An NQ2 license shall not authorize the licensee to sell wine and malt beverages by the package.*
- (4) (a) *A riverboat holding an NQ2 license may sell distilled spirits, wine, and malt beverages at retail by the drink for consumption on the premises of the riverboat. The riverboat shall have a regular place of mooring in a wet county or city of this state.*
- (b) *A riverboat that has a regular place of mooring outside this state, may be licensed if the boat has an alternative regular place of mooring that qualifies under paragraph (a) of this subsection.*
- (c) *An NQ2 license issued under this subsection shall not be transferable to another riverboat, vessel, or other premises.*
- (d) *If a riverboat moors or makes landfall in a location other than its regular or alternate regular place of mooring, all distilled spirits, wine, and malt beverages shall be kept locked.*
- (e) *A riverboat licensed under this subsection shall not take on or discharge passengers when mooring or making landfall in dry option territory.*
- (f) *A riverboat NQ2 licensee shall comply with the license restrictions governing licensed premises in the regular place of mooring or alternative place of mooring.*

➔SECTION 42. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

- (1) *A "Nonquota type 3" or "NQ3" retail drink license may be issued to:*
- (a) *A private club in existence for longer than one (1) year prior to the license application; or*
- (b) *A dining car.*

- (2) *An NQ3 retail drink license issued to a private club shall authorize the licensee to exercise the privileges of an NQ2 retail drink licensee, at the designated premises if the general public is excluded.*
- (3) *An NQ3 retail drink license issued to a dining car shall authorize the licensee to exercise the privileges of an NQ2 retail drink licensee and shall also authorize the licensee to sell distilled spirits and wine by the package, only on the designated dining car identified in the NQ3 license.*

➔SECTION 43. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

- (1) *A "Nonquota type 4" or "NQ4" retail malt beverage drink license may be issued to the holder of a quota retail drink license, microbrewery license, small farm winery license, or any other business wishing to sell malt beverages by the drink for consumption on the premises only.*
- (2) *An NQ4 retail malt beverage drink license shall authorize the licensee to:*
 - (a) *Sell malt beverages at retail by the drink from only the licensed premises for consumption at the licensed premises only; and*
 - (b) *Purchase malt beverages only from a distributor.*
- (3) *The holder of an NQ4 retail malt beverage drink license may also hold a nonquota retail malt beverage package license.*
- (4) *A nonquota retail malt beverage drink license shall not be issued to any premises from which gasoline and lubricating oil are sold or from which the servicing and repair of motor vehicles is conducted, unless there is maintained in inventory on the premises for sale at retail not less than five thousand dollars (\$5,000) of food, groceries, and related products valued at cost. For purposes of this subsection, the term "food and groceries" has the meaning provided in Section 71 of this Act. This section shall not apply to any licensed premises that sells no fuel other than marine fuel.*

➔Section 44. KRS 243.020 is amended to read as follows:

- (1) A person shall not do any act authorized by any kind of license with respect to the manufacture, storage, sale, purchase, transporting, or other traffic in alcoholic beverages unless he *or she* holds the kind of license that authorizes the act.
- (2) The holding of any permit from the United States government to traffic in alcoholic beverages without the corresponding requisite state and local licenses shall in all cases raise a rebuttable presumption that the holder of the United States permit is unlawfully trafficking in alcoholic beverages.
- (3) Except as provided in KRS 243.036 ~~and~~ 243.260, ~~and 243.290~~, a person, conducting a place of business patronized by the public, who does not hold a license to sell distilled spirits, wine, or malt beverages, shall not permit any person to sell, barter, loan, give away, or drink distilled spirits, wine, or malt beverages on the premises of his *or her* place of business.
- (4) Any distilled spirits or wine in excess of three (3) gallons (twelve (12) liters) shall not be stored or kept except upon the licensed premises of a person who is the holder of a license provided for in KRS 243.030.
- (5) *In a moist territory, the only types of licenses that may be issued are those that directly correspond with the types of sales approved by the voters through moist elections within the territory, unless otherwise specifically authorized by statute.*

➔Section 45. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the director of the Division of Distilled Spirits, the fees for which shall be:

- (1) Distiller's license, per annum ~~\$3,090.00~~ ~~[\$2,500.00]~~
- (2) Rectifier's license, per annum ~~\$2,580.00~~ ~~[\$2,500.00]~~
- (3) ~~Winery~~ ~~Blender's~~ license, per annum ~~\$2,500.00~~
- ~~(4)~~ ~~Vintner's~~ license, per annum ~~\$1,030.00~~ ~~[\$1,000.00]~~
- ~~(4)~~ ~~(5)~~ Small farm winery license, per annum ~~\$110.00~~ ~~[\$100.00]~~
 - (a) Small farm winery off-premises retail license, per annum ~~\$30.00~~ ~~[\$25.00]~~
- ~~(5)~~ ~~(6)~~ Wholesaler's license, per annum ~~\$2,060.00~~ ~~[\$2,000.00]~~

- ~~(6)~~~~(7)~~ **Quota** retail package license, per annum:
 - ~~(a)~~ — In counties containing cities of the first class or a consolidated local government] ~~\$570.00~~[\$800.00
 - ~~(b)~~ — In counties containing cities of the second class\$700.00
 - ~~(c)~~ — In counties containing cities of the third class\$600.00
 - ~~(d)~~ — In counties containing cities of the fourth class\$500.00
 - ~~(e)~~ — In all other counties\$400.00]
 - ~~(7)~~~~(8)~~ **Quota** retail drink license, motel drink license, restaurant drink license, or supplemental bar license, per annum:
 - ~~(a)~~ — In counties containing cities of the first class or a consolidated local government] ~~\$620.00~~[\$1,000.00
 - ~~(b)~~ — In counties containing cities of the second class\$700.00
 - ~~(c)~~ — In counties containing cities of the third class\$600.00
 - ~~(d)~~ — In counties containing cities of the fourth class\$500.00
 - ~~(e)~~ — The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.]
 - ~~(8)~~~~(9)~~ Transporter's license, per annum~~\$210.00~~[\$100.00
 - ~~(10)~~ Dining car license, per annum\$100.00]
 - ~~(9)~~~~(11)~~ Special nonbeverage alcohol vendor's license, per annum~~\$60.00~~[\$50.00
 - ~~(12)~~ Special industrial alcohol license, per annum\$50.00
 - ~~(13)~~ Special nonindustrial alcohol license, per annum\$50.00]
 - ~~(10)~~~~(14)~~ Special agent's or solicitor's license, per annum~~\$30.00~~[\$25.00]
 - ~~(11)~~~~(15)~~ Special storage or warehouse license and Bottling house or bottling house storage license, per annum ~~\$1,030.00~~[\$500.00]
 - ~~(12)~~~~(16)~~ Special temporary liquor license, per event~~\$90.00~~[\$100.00
 - ~~(17)~~ Special private club license, per annum —\$300.00
- The fee for each special private club license shall be the fee set out in this subsection; however, there shall be no charge for each special private club license issued in excess of six (6) that is issued to the same licensee at the same premises.]
- ~~(13)~~~~(18)~~ Special Sunday retail drink license, per annum ~~\$520.00~~[\$500.00
 - ~~(19)~~ Nonresident special agent or solicitor's license, per annum\$100.00
 - ~~(20)~~ Transport permit, nonresident license, per annum\$100.00
 - ~~(21)~~ Through transporter's license, per annum\$100.00
 - ~~(22)~~ Freight forwarder's license, per annum\$100.00
 - ~~(23)~~ Restaurant wine license, per annum.....\$500.00
 - ~~(24)~~ Special temporary wine license, per event\$50.00]
 - ~~(14)~~~~(25)~~ Caterer's license, per annum ~~\$830.00~~[\$800.00
 - ~~(26)~~ Souvenir retail liquor license, per annum\$500.00]
 - ~~(15)~~~~(27)~~ Special temporary distilled spirits and wine auction license, per event~~\$110.00~~[\$100.00
 - ~~(28)~~ Airport drink license, per annum\$1,000.00
 - ~~(29)~~ Convention center or convention hotel complex

license, per annum	\$5,000.00
(16)(30) Extended hours supplemental license, per annum	\$2,000.00 \$2,060.00
(31) Horse race track license, per annum	\$2,000.00
(32) Automobile race track license, per annum	\$2,000.00
(33) Air or rail system license, per annum	\$2,000.00
(34) Riverboat license, per annum	\$1,000.00
(35) Bottling house license, per annum	\$1,000.00
(17)(36) Hotel in-room license, per annum	\$200.00 \$210.00
(37) Bonded warehouse license, per annum	\$1,000.00
(18)(38) Air transporter [liquor] license, per annum	\$500.00 \$520.00
(19)(39) Sampling license, per annum	\$100.00 \$110.00
(20)(40) Replacement or duplicate license	\$25.00
(21)(41) Entertainment destination license, per annum	\$7,500.00 \$7,730.00
(22)(42) (a) Limited restaurant license [or limited golf course license] , per annum [(includes distilled spirits, wine, and malt beverages), new applicants: 1. In counties containing cities of the first class or a consolidated local government] \$1,200.00 \$780.00 2. In counties containing cities of the second class \$900.00 3. In counties containing cities of the third class \$800.00 4. In counties containing cities of the fourth, fifth, or sixth classes \$700.00 (b) Renewals for limited restaurant licenses or limited golf course licenses shall be \$50.00 less than the applicable licensing fee for new applicants.]	
(23) Limited golf course license, per annum	\$720.00 \$720.00
(24)(43) Small farm winery wholesaler's license, per annum	\$100.00 \$110.00
(25)(44) Qualified historic site license (includes distilled spirits, wine, and malt beverages by the drink), per annum	\$1,000.00 \$1,030.00
(26) Nonquota type 1 license, per annum	\$4,120.00 \$4,120.00
(27) Nonquota type 2 license, per annum	\$830.00 \$830.00
(28) Nonquota type 3 license, per annum	\$310.00 \$310.00
(29) Distilled spirits and wine storage license, per annum	\$620.00 \$620.00
(30) Out-of-state distilled spirits and wine supplier's license, per annum	\$1,550.00 \$1,550.00
(31) Limited out-of-state distilled spirits and wine supplier's license, per annum	\$260.00 \$260.00
(32) Micro out-of-state distilled spirits and wine supplier's license, per annum	\$10.00 \$10.00
(33)(45) A nonrefundable fee of sixty [fifty] dollars (\$60)(\$50) shall be charged to process each new transitional license pursuant to KRS 243.045.	
(34)(46) Other special licenses the board finds necessary for the proper regulation and control of the traffic in distilled spirits and wine and provides for by administrative regulation. In establishing [fixing] the amount of	

license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

- (35) *The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the primary retail drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.*

A nonrefundable application fee of fifty dollars (\$50) shall be charged to process each new application under this section, except for subsections (4), (8), (9), (10), (12), (15), (19), and (20) of this section ~~{(5), (9), (11), (12), (13), (14), (16), (19), (20), (21), (22), (24), (27), (39), and (40)}~~. The application fee shall be applied to the licensing fee if the license is issued; otherwise it shall be retained by the department.

➔Section 46. KRS 243.0305 is amended to read as follows:

- (1) ~~{A souvenir retail liquor license may be issued to }~~Any licensed Kentucky distiller that *is located in wet territory and that* has a gift shop or other retail outlet on its premises *may conduct the activities permitted under this section as a part of its distiller's license* ~~{, if the distillery is located in wet territory. The application shall be made on forms provided by the board}~~.
- (2) A wholesaler registered to distribute the brands of any distiller ~~{holding a souvenir retail license}~~ may permit the distiller to deliver a souvenir package directly from the distillery proper to the portion of the distillery premises operated by the licensee for the sale of souvenir packages. However, all direct shipments shall be invoiced from the distiller to the wholesaler and from the wholesaler to the *distiller* ~~{souvenir package licensee}~~, and all products directly shipped shall be included in the wholesaler's inventory and depletions for purposes of tax collections imposed pursuant to KRS 243.710 to 243.895 and 243.990.
- (3) A distiller ~~{who has obtained a souvenir retail license}~~ may sell souvenir packages at retail to distillery visitors of legal drinking age, in quantities not to exceed an aggregate of three (3) liters per visitor per day, with the exception of a purchase by a partnership, limited liability partnership, corporation, limited liability company, or other business entity holding an event on the premises of the distillery, in which case the limitation shall be one (1) liter per visitor attending the event. These sales shall be permitted only through the gift shop or other retail outlet on the distiller's premises.
- (4) Hours of sale for ~~{a }~~ souvenir *packages at retail* ~~{liquor licensee}~~ shall be 9 a.m. until 9 p.m. prevailing time Monday through Saturday. The licensed premises may remain open if *it has* ~~{they have}~~ a separate department pursuant to KRS 244.290(1).
- (5) Except as provided in this section, souvenir *package sales* ~~{retail liquor licenses}~~ shall be governed by all the statutes and administrative regulations governing the retail sale of distilled spirits by the package.
- (6) No wholesaler may restrict the sale of souvenir packages to the *distiller of origin* ~~{souvenir retail liquor licensee}~~ exclusively, but shall make souvenir packages available to any Kentucky retail licensee licensed for the sale of distilled spirits by the package.

➔Section 47. KRS 243.033 is amended to read as follows:

- (1) A caterer's license may be issued as a supplementary license to a caterer that holds a *quota* retail package ~~{liquor}~~ license ~~{or a distilled spirits and wine by the }~~, *a quota retail* drink ~~{retail}~~ license, *an NQ1 license, an NQ2 license*, or a limited restaurant license.
- (2) The caterer's license may be issued as a primary license to a caterer in any wet territory *or in any moist territory established under Section 15 of this Act* for the premises that serves as the caterer's commissary and designated banquet hall. No primary caterer's license shall be issued to a premises that operates as a restaurant. The alcoholic beverage stock of the caterer shall be kept under lock and key at the licensed premises during the time that the alcoholic beverages are not being used in conjunction with a catered function.
- (3) The caterer's license shall authorize the caterer to:
 - (a) Purchase and store alcoholic beverages in the manner prescribed in KRS 243.250, 243.280, and 244.310;
 - (b) Transport, sell, serve, and deliver malt beverages by the drink at locations away from the licensed premises or at the caterer's designated banquet hall in conjunction with the catering of food and malt beverages for a customer and his or her guests, in:
 1. Cities and counties *established as moist territory* ~~{in which prohibition is not in effect}~~ under *Section 14 of this Act* ~~{KRS 242.1244 or 242.185(6)}~~ if the receipts from the catering of food at

- any catered event are at least seventy percent (70%) of the gross receipts from the catering of both food and malt beverages; or
2. All other wet territory if the receipts from the catering of food at any catered event are at least thirty-five percent (35%) of the gross receipts from the catering of both food and malt beverages;
- (c) Transport, sell, serve, and deliver distilled spirits and wine by the drink at locations away from the licensed premises or at the caterer's designated banquet hall in conjunction with the catering of food and alcoholic beverages for a customer and his *or her* guests, in:
1. Cities and counties *established as moist territory*~~[in which prohibition is not in effect]~~ under *Section 14 of this Act*~~[KRS 242.1244 or 242.185(6)]~~ if the receipts from the catering of food at any catered event are at least seventy percent (70%) of the gross receipts from the catering of both food and alcoholic beverages;
 2. Cities of the fourth class and counties containing cities of the fourth class *established as wet or moist territory permitting distilled spirits and wine drink sales by ordinance*~~[in which prohibition is not in effect]~~ under *Section 31 of this Act*~~[KRS 242.185(1) to (5)]~~ if the receipts from the catering of food at any catered event are at least fifty percent (50%) of the gross receipts from the catering of both food and alcoholic beverages; or
 3. All other wet territory in which the sale of distilled spirits and wine by the drink is authorized if the receipts from the catering of food at any catered event are at least thirty-five percent (35%) of the gross receipts from the catering of both food and alcoholic beverages;
- (d) Receive and fill telephone orders for alcoholic beverages in conjunction with the ordering of food for a catered event; and
- (e) Receive payment for alcoholic beverages served at a catered event on a by-the-drink or by-the-event basis. The caterer may bill the host for by-the-function sales of alcoholic beverages in the usual course of the caterer's business.
- (4) A caterer licensee shall not cater alcoholic beverages at locations for which retail alcoholic beverage licenses or special temporary licenses have been issued. *A caterer licensee may cater a fundraising event for which a special temporary distilled spirits and wine auction license has been issued under Section 49 of this Act.*
 - (5) A caterer licensee shall not cater distilled spirits and wine on Sunday except in territory in which the Sunday sale of distilled spirits and wine is permitted under the provisions of KRS 244.290 and 244.295. A caterer licensee shall not cater malt beverages on Sunday except in territory in which the Sunday sale of malt beverages is permitted under the provisions of KRS 244.480.
 - (6) The location at which alcoholic beverages are sold, served, and delivered by a caterer, pursuant to this section, shall not constitute a public place for the purpose of KRS Chapter 222. If the location is a multi-unit structure, only the unit or units at which the function being catered is held shall be excluded from the public place provisions of KRS Chapter 222.
 - (7) The caterer licensee shall post a copy of his *or her* caterer's license at the location of the function for which alcoholic beverages are catered.
 - (8) The name and license numbers of the caterer shall be painted or securely attached, in a contrasting color, in a form prescribed by the board by promulgation of an administrative regulation, upon all vehicles used by the caterer to transport alcoholic beverages.
 - (9) All restrictions and prohibitions applying to a distilled spirits and wine *quota* retail drink licensee not inconsistent with this section~~[,]~~ shall apply to the caterer licensee.
 - (10) The caterer licensee shall maintain records as set forth in KRS 244.150 and in administrative regulations promulgated by the board.

➔Section 48. KRS 243.035 is amended to read as follows:

In addition to the licenses prescribed by KRS 243.030, a bottling house license may be issued by the director of the Division of Distilled Spirits, upon payment of the fee set forth in KRS 243.030. The license may be issued only to persons who are authorized under this chapter to store or warehouse distilled spirits or wine. The bottling house license shall authorize the licensee to bottle distilled spirits on the premises designated in the license. The holder of a bottling house license may also hold a *distilled spirits and wine*~~[special]~~ storage~~[or warehouse]~~ license.

➔Section 49. KRS 243.036 is amended to read as follows:

- (1) A special temporary distilled spirits and wine auction license may be issued to a charitable organization, upon the payment of the fee set forth in KRS 243.030 and upon satisfaction of the requirements prescribed by administrative regulation promulgated by the department.
- (2) A special temporary distilled spirits and wine auction license shall authorize the charitable organization to:
 - (a) Purchase, transport, receive, possess, store, sell, and deliver distilled spirits and wine to be sold at auction in the manner prescribed by administrative regulation promulgated by the department;
 - (b) Obtain distilled spirits and wine from distillers, rectifiers, ~~wineries~~~~[winners]~~, wholesalers, distributors, retailers, or any other person, by gift or donation, for the purpose of charity auctions in the manner prescribed by administrative regulation promulgated by the department; and
 - (c) Receive payment for distilled spirits and wine sold at auctions in the manner prescribed by administrative regulation promulgated by the department.
- (3) Each distilled spirits and wine auction conducted by a charitable organization shall be subject to all restrictions and limitations contained in KRS Chapters 241 to 244 and the administrative regulations issued under those chapters and shall be authorized only on the days and only during the hours that the sale of alcoholic beverages is otherwise authorized in the county or municipality.
- (4) The location at which the distilled spirits and wine are auctioned under this section shall not constitute a public place for the purpose of KRS Chapter 222. Distilled spirits and wine auctions may be conducted on licensed or unlicensed premises. The charitable organization possessing a special temporary distilled spirits and wine auction license shall post a copy of the license at the location of the auction. During this period not more than one (1) auction shall be held.
- (5) A special temporary distilled spirits and wine auction license shall not be issued for any period longer than thirty (30) days. During this period not more than one (1) auction shall be held.
- (6) Notwithstanding any other provision of KRS Chapters 241 to 244, a distiller, rectifier, ~~winery~~~~[winer]~~, wholesaler, distributor, or retailer may donate, give away, or deliver any of its products to a charitable organization possessing a special temporary distilled spirits and wine auction license under this section.
- (7) All restrictions and prohibitions applying to a distilled spirits and wine retail package and distilled spirits and wine by the drink license, not inconsistent with this section, shall apply to a special temporary distilled spirits and wine auction license.

➔Section 50. KRS 243.037 is amended to read as follows:

- (1) *Except as where specifically authorized by statute, a retailer licensed to sell distilled spirits or wine by the drink shall only be permitted to sell or serve distilled spirits and wine by the drink at one (1) main bar, counter, or similar contrivance at the licensed premises.*
- (2) *A retailer may have necessary service bars, if they are not located in any room in which the members or guests or patrons of the place are invited or permitted to come. No distilled spirits or wine shall be served at service bars.*
- (3) *A supplemental bar license shall authorize the licensee to sell and serve distilled spirits and wine by the drink at retail*~~[A supplemental bar license shall authorize the licensee to sell or serve distilled spirits or wine by the drink at retail for consumption on the licensed premises]~~ from an additional location other than the main bar~~[of an existing retail drink licensed premises]~~. A supplemental bar license is a nonquota license and shall not be transferable to other premises.
- ~~(4)~~~~(2)~~ A supplemental bar license shall not be issued unless:
 - (a) The licensee applies to the state distilled spirits director and meets all requirements for obtaining a supplemental bar license; and
 - (b) The licensee pays *a fee identical to the fee for the primary license authorizing retail distilled spirits and wine drink sales for each of up to five (5) supplemental bar licenses. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises*~~[the applicable license fee prescribed in KRS 243.030(8), (17), (23), (28), (34), or (42)]~~.

~~(5)(3)~~ A license authorizing retail malt beverage sales, by the drink or by the package, authorizes the licensee ~~authorized~~ to sell and serve malt beverages may sell and serve malt beverages at any location on the licensed premises without obtaining a supplemental bar license.

➔Section 51. KRS 243.040 is amended to read as follows:

The following kinds of malt beverage licenses may be issued by the director of the Division of Malt Beverages, the fees for which shall be:

- (1) Brewer's license, per annum ~~\$2,500.00~~ **\$2,580.00**
- (2) Microbrewery license, per annum ~~\$500.00~~ **\$520.00**
- (3) Distributor's license, per annum ~~\$500.00~~ **\$520.00**
- (4) **Nonquota retail malt beverage package** ~~retail~~ license, per annum:
 - (a) ~~New applicants~~ ~~\$200.00~~ **\$210.00**
 - (b) ~~Renewals~~ ~~\$150.00~~ **\$150.00**
- ~~(5) Dining car license, per annum \$200.00~~
- ~~(6) Transporter's license, per annum \$100.00~~
- ~~(7) Special temporary license, per event \$50.00~~
- ~~(8) Special off premises retail storage license, per annum \$100.00~~
- ~~(9) Distributor's storage, per annum \$250.00~~
- ~~(10) Special beer transporter's license, per annum \$100.00~~
- ~~(5)(11) Brew-on-premises license, per annum \$500.00~~ **\$520.00**
- ~~(6)(12) Out-of-state malt beverage supplier's~~ ~~brewer~~ license,
 - per annum ~~\$1,500.00~~ **\$1,550.00**
- ~~(7)(13) Malt beverage storage~~ ~~warehouse~~ license, per annum ~~\$1,000.00~~ **\$260.00**
- ~~(8)(14) Replacement or duplicate license, per annum \$25.00~~
- ~~(9)(15) Limited out-of-state malt beverage supplier's~~ ~~brewer~~ license,
 - per annum ~~\$250.00~~ **\$260.00**
- (10) Nonquota type 4 malt beverage drink license.....\$210.00**

~~(16) Qualified historic site, per annum \$200.00~~

(11) The holder of a nonquota retail malt beverage package license may obtain a Nonquota type 4 malt beverage drink license for a fee of fifty dollars (\$50). The holder of a Nonquota type 4 malt beverage drink license may obtain a nonquota retail malt beverage package license for a fee of fifty dollars (\$50).

~~(12)(17)~~ A nonrefundable fee of ~~sixty~~ ~~fifty~~ dollars (~~\$60~~) (~~\$50~~) shall be charged to process each new transitional license pursuant to KRS 243.045.

~~(13)(18)~~ Other special licenses as the state board finds to be necessary for the administration of KRS Chapters 241, 242, 243, and 244 and for the proper regulation and control of the trafficking in malt beverages, as provided for by administrative regulations promulgated by the state board.

Applicants for special licenses provided for under the authority granted in subsection **(9) of this section** ~~(15)~~ may be exempt from so much of the provisions of subsection (1)(f) of KRS 243.100 set out in administrative regulations promulgated by the board. A nonrefundable application fee of fifty dollars (\$50) shall be charged to process each new application for a license under this section ~~except for subsections (6), (7), (10), and (14)~~. The application fee shall be applied to the licensing fee if the license is issued, or otherwise the fee shall be retained by the department.

➔Section 52. KRS 243.042 is amended to read as follows:

- (1) A qualified historic site license may be issued to any establishment meeting the criteria established in **Section 1 of this Act** ~~KRS 241.010(34)~~ as long as the establishment is within:
 - (a) Any *wet* territory ~~not under the provisions of KRS 242.190 to 242.430~~; or

- (b) Any precinct that has authorized the sale of alcoholic beverages under KRS 242.1242.
- (2) A qualified historic site license shall authorize the licensee to:
 - (a) Sell distilled spirits, wine, and malt beverages by the drink at one (1) or more permanent or nonpermanent locations on the premises over which the licensee, by lease or ownership, has exclusive control without obtaining additional supplemental bar licenses prescribed by KRS 243.037 ~~and 244.330~~;
 - (b) Sell distilled spirits, wine, and malt beverages by the drink to patrons at public or private functions held on the premises; and
 - (c) Purchase and store alcoholic beverages in the manner prescribed in KRS 243.250, 243.280, and 244.310.
- (3) Nothing in this section exempts the holder of a qualified historic site license from the provisions of KRS Chapters 241, 242, 243, and 244, or from any rules of the board as established by administrative regulations, except as expressly stated in this section.

➔SECTION 53. KRS 243.050 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

- (1) *Where it is determined by the department to be in the best interest of promoting tourism, conventions, and the economic development of Kentucky or any part thereof, the department may issue an extended hours supplemental license for the retail sale of alcoholic beverages by the drink to the holder of an NQ1 retail drink license or a qualified historic site license. The department may, by administrative regulation or special conditions of an extended hours supplemental license, establish the days when the supplemental license will be valid, including Sundays after 1 p.m., and establish such restrictions on the use of the license as will ensure that it will be primarily for the benefit of the convention business, the horse racing industry, passengers at large commercial airports and rail systems, the automobile racing industry, and qualified historic sites.*
- (2)
 - (a) *A licensee located in territory which has authorized Sunday retail distilled spirits and wine drink sales under Section 91 or 92 of this Act, either by local option election or by local government ordinance, shall obtain a Sunday retail drink license in order to sell distilled spirits and wine on Sunday.*
 - (b) *A retail licensee holding a Sunday retail drink license is authorized to remain open and sell distilled spirits and wine by the drink for consumption on the premises only during those times and hours permitted by local government ordinance.*

➔Section 54. KRS 243.060 is amended to read as follows:

- (1) The fiscal court of each county or a consolidated local government in which traffic in alcoholic beverages is not prohibited under KRS Chapter 242 may impose license fees for the privilege of trafficking in alcoholic beverages. These licenses may be issued by the county or consolidated local government administrator. The license fees *are subject to the provisions of subsections (2) to (6) of this section, and* shall not exceed the following:

- (a) *Quota* retail package ~~license~~~~licenses~~, per annum:
 - 1. In counties containing ~~cities of the first class or~~ a consolidated local government \$1,200.00
 - 2. ~~In counties containing cities of the second class\$1,000.00~~
 - 3. ~~In counties containing cities of the third class\$800.00~~
 - 4. ~~In counties containing cities of the fourth class\$600.00~~
 - 5. In all other counties ~~\$400.00~~ **\$1,000.00**
- (b) *Quota* retail drink license~~, motel drink license, restaurant drink license, or supplemental bar license~~, per annum:
 - 1. In counties containing ~~cities of the first class or~~ a consolidated local government \$1,600.00
 - 2. In *all other* counties ~~containing cities of the second class~~\$1,000.00
 - 3. ~~In counties containing cities of the third class\$800.00~~
 - 4. ~~In counties containing cities of the fourth class\$600.00~~

- (c) *Nonquota type 2 retail drink license (includes distilled spirits, wine, and malt beverages), per annum:*
 - 1. *In counties containing a consolidated local government.....\$1,800.00*
 - 2. *In all other counties.....\$1,000.00*
- (d) *Nonquota type 3 retail drink license (includes distilled spirits, wine, and malt beverages), per annum.....\$300.00*
- (e) Special temporary~~liquor~~ license, per event:
 - 1. In counties containing~~cities of the first class or~~ a consolidated local government \$266.66
 - 2. In *all other* counties~~containing cities of the second class~~ \$166.66
 - ~~3. In counties containing cities of the third class \$133.34~~
 - ~~4. In counties containing cities of the fourth class \$100.00~~
- ~~(d) Restaurant wine license, per annum:~~
 - ~~1. New applicants \$600.00~~
 - ~~2. Applicants for renewal \$400.00~~
- ~~(e) Special temporary wine license, per event \$50.00~~
- ~~(f) Special private club license, per annum \$300.00~~
- ~~(g) Special Sunday retail drink license, per annum \$300.00~~
- ~~(g)(h) Nonquota retail malt beverage package license, per annum:~~
 - ~~1. New applicants} \$400.00~~
 - ~~2. Applicants for renewal \$150.00~~
- (h) *Nonquota type 4 retail malt beverage drink license, per annum.....\$400.00*
- ~~(i) Special temporary malt beverage license, per event \$25.00~~
- ~~(j) 1. Limited restaurant license ~~or limited golf course license, per annum~~ (includes distilled spirits, wine, and malt beverages), per annum~~new applicants~~:~~
 - ~~1.a. In counties containing ~~cities of the first class or~~ a consolidated local government \$2,000.00~~
 - ~~2.b. In all other counties~~containing cities of the second class~~ \$1,400.00~~
 - ~~c. In counties containing cities of the third class \$1,200.00~~
 - ~~d. In counties containing cities of the fourth, fifth, or sixth class \$1,000.00~~
 - ~~2. Renewals for limited restaurant licenses or limited golf course licenses are \$250.00 less than the applicable licensing fee for new applicants.~~
- (j) *Limited golf course license (includes distilled spirits, wine, and malt beverages), per annum:*
 - 1. *In counties containing a consolidated local government.....\$2,000.00*
 - 2. *In all other counties.....\$1,400.00*
- (2) *The fee for the following license types may not be increased by more than five percent (5%) above the January 1, 2013, fee for the current license or the former license type listed beside it, during any five (5) year period. The fees for the licenses described in this subsection are still subject to the maximum amounts listed for those licenses in subsection (1) of this section:*
 - (a) *Quota retail package license: retail package liquor license;*
 - (b) *Quota retail drink license: retail drink license;*
 - (c) *Nonquota type 2 retail drink license: restaurant drink license;*
 - (d) *Nonquota retail malt beverage package license: retail malt beverage license;*

- (e) *Nonquota type 4 retail malt beverage drink license: retail malt beverage license;*
- (f) *Limited restaurant license; and*
- (g) *Limited golf course license.*
- (3) *The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the primary drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.*
- (4) *The holder of a nonquota retail malt beverage package license may obtain a Nonquota type 4 malt beverage drink license for a fee of fifty dollars (\$50). The holder of a Nonquota type 4 malt beverage drink license may obtain a nonquota retail malt beverage package license for a fee of fifty dollars (\$50).*
- (5) Any amount paid to any city within the county as a license fee for the same privilege for the same year may be credited against the county license fee.
- ~~(6)~~(3) If any part of this section is held invalid, all of this section and of KRS 243.600 shall also be considered invalid.
- ➔Section 55. KRS 243.070 is amended to read as follows:
- (1) The legislative body of any city or a consolidated local government in which traffic in alcoholic beverages is not prohibited under KRS Chapter 242 may impose license fees for the privilege of manufacturing and trafficking in alcoholic beverages. Only those licenses set out in this section shall be issued. ~~and~~ *The license fees are subject to the provisions of subsections (16), (17), and (18) of this section, and* ~~fee for each~~ shall not exceed the *amounts* specified *in subsections (2) to (15) of this section.* ~~amount:~~
- ~~(2)~~(1) Distilled spirit licenses as set forth in KRS 243.030:
- (a) Distiller's license, per annum\$500.00
- (b) Rectifier's license, per annum\$3,000.00
- ~~(c)~~ ~~Blender's license, per annum\$3,000.00~~
- ~~(d)~~ Wholesaler's distilled spirits and wine license, per annum\$3,000.00
- ~~(d)~~(e) *Quota*~~[Distilled spirits and wine]~~ retail package license, per annum:
1. In counties containing ~~cities of the first class or~~ a consolidated local government \$1,200.00
2. ~~In counties containing cities of the second class\$1,000.00~~
3. ~~In counties containing cities of the third class\$800.00~~
4. ~~In counties containing cities of the fourth class\$600.00~~
5. In all other counties *\$1,000.00*~~[\$400.00]~~
- ~~(3)~~(2) *Quota*~~[Distilled spirits and wine]~~ retail drink license~~, motel drink license, airport drink license, restaurant drink license, or supplemental bar license~~, per annum:
- (a) In counties containing ~~cities of the first class or~~ a consolidated local government ..\$1,600.00
- (b) In *all other* counties~~[containing cities of the second class]~~\$1,000.00
- ~~(c)~~ ~~In counties containing cities of the third class\$800.00~~
- ~~(d)~~ ~~In counties containing cities of the fourth class\$600.00]~~
- ~~(4)~~(3) ~~[Distilled spirits and wine]~~Special temporary~~[liquor]~~ license, per event:
- (a) In counties containing ~~cities of the first class or~~ a consolidated local government\$266.66
- (b) In *all other* counties~~[containing cities of the second class]~~\$166.66
- ~~(c)~~ ~~In counties containing cities of the third class\$133.33~~
- ~~(d)~~ ~~In counties containing cities of the fourth class\$100.00]~~
- ~~(5)~~(4) *Nonquota type 1 retail drink license (includes distilled spirits, wine, and malt beverages), per annum \$2,000.00*

- (6) *Nonquota type 2 retail drink license (includes distilled spirits, wine, and malt beverages), per annum:*
 - (a) *In counties containing a consolidated local government.....\$1,800.00*
 - (b) *In all other counties.....\$1,000.00*
- (7) *Nonquota type 3 retail drink license (includes distilled spirits, wine, and malt beverages), per annum.....\$300.00*
- ~~{Special temporary wine license, per event \$50.00}~~
- ~~(8){(5)} Distilled spirits and wine special temporary auction license, per event \$200.00~~
- ~~(9){(6)} Special private club license, per annum \$300.00~~
- ~~(7) Distilled spirits and wine }Special Sunday retail drink license, per annum \$300.00~~
- ~~(10){(8)} Extended hours supplemental license, per annum \$2,000.00~~
- ~~{(9) Nonresident special agent or solicitor's license, per annum \$40.00~~
- ~~(10) Restaurant wine license, per annum:~~
 - ~~(a) New applicants \$600.00~~
 - ~~(b) Applicants for renewal \$400.00}~~
- ~~(11) Caterer's license, per annum \$800.00~~
- ~~{(12) Riverboat license, per annum \$1,200.00~~
- ~~(13) Horse race track license, per annum \$2,000.00~~
- ~~(14) Convention center or convention hotel complex license, per annum \$2,000.00}~~
- ~~(12){(15)} *Bottling house or* bottling house~~{ distilled spirits license or wine}~~ storage license, per annum \$1,000.00~~
- ~~{(16) Automobile race track license, per annum \$2,000.00~~
- ~~(17) Souvenir retail liquor license, per annum \$1,000.00}~~
- ~~(13){(18)} Malt beverage licenses as follows:~~
 - ~~(a) Brewer's license, per annum \$500.00~~
 - ~~(b) Microbrewery license, per annum \$500.00~~
 - ~~(c) Malt beverage distributor's license, per annum \$400.00~~
 - ~~(d) *Nonquota* retail malt beverage *package* license, per annum \$200.00~~
 - ~~(e) *Nonquota type 4 retail malt beverage drink license, per annum*~~{Special temporary retail malt beverage license, per event} \$200.00~~~~{ \$25.00}~~~~
 - ~~(f) Malt beverage brew-on-premises license, per annum \$100.00~~
- ~~(14){(19)} Limited restaurant license~~{ or limited golf course license, per annum}~~ (includes distilled spirits, wine, and malt beverages), *per annum*~~{new applicants}~~:~~
 - ~~(a) In counties containing~~{ cities of the first class or}~~ a consolidated local government .. \$1,800.00~~
 - ~~(b) In *all other* counties~~{ containing cities of the second class}~~ \$1,200.00~~
 - ~~{(c) In counties containing cities of the third class \$1,000.00~~
 - ~~(d) In _____ counties _____ containing _____ cities _____ of _____ the _____ fourth, _____ fifth, _____ or sixth class \$800.00}~~

- (15) *Limited golf course license (includes distilled spirits, wine, and malt beverages), per annum:*
- (a) *In counties containing a consolidated local government.....\$1,800.00*
 - (b) *In all other counties.....\$1,200.00*
- (16) *The fee for the following license types may not be increased by more than five percent (5%) above the January 1, 2013, fee for the current license or the former license type listed beside it, during any five (5) year period. The fees for the licenses described in this subsection are still subject to the maximum amounts listed for those licenses in subsections (2) to (15) of this section:*
- (a) *Quota retail package license: retail package liquor license;*
 - (b) *Quota retail drink license: retail drink license;*
 - (c) *Nonquota type 1 retail drink license: convention center or convention hotel complex license;*
 - (d) *Nonquota type 2 retail drink license: restaurant drink license;*
 - (e) *Nonquota retail malt beverage package license: retail malt beverage license;*
 - (f) *Nonquota type 4 retail malt beverage drink license: retail malt beverage license;*
 - (g) *Limited restaurant license; and*
 - (h) *Limited golf course license.*
- (17) *The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the primary drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.*
- (18) *The holder of a nonquota retail malt beverage package license may obtain a Nonquota type 4 malt beverage drink license for a fee of fifty dollars (\$50). The holder of a Nonquota type 4 malt beverage drink license may obtain a nonquota retail malt beverage package license for a fee of fifty dollars (\$50).*

➔Section 56. KRS 243.075 is amended to read as follows:

- (1) Notwithstanding the provisions of KRS 243.070, in any city of the third or fourth class ***that is wet or moist through an election held under Section 15 of this Act*** ~~in which the discontinuance of prohibition is effective by virtue of a local option election held in the manner prescribed in KRS Chapter 242 and in the case of fourth class cities, KRS 242.127 to 242.129~~, the governing body of the city and the governing body of the county containing ~~a~~ ***the city of the third or fourth class*** is authorized to impose a regulatory license fee upon the gross receipts of each establishment therein licensed to sell alcoholic beverages. The regulatory license fee may be levied at the beginning of each budget period at a percentage rate as shall be reasonably estimated to fully reimburse the local government for the estimated costs of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the city and county. The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, except:
- (a) ~~(1)~~ A credit against a regulatory license fee in a city shall be allowed in an amount equal to any licenses or fees imposed by the city pursuant to KRS 243.070; and
 - (b) ~~(2)~~ In a county in which the city and county both levy a regulatory license fee, the county license fee shall only be applicable outside the jurisdictional boundaries of those cities which levy a license fee.
- (2) ***Notwithstanding any limitations imposed on the city's or county's taxing or licensing power by Section 55 of this Act, a city or county that qualifies under Section 31 of this Act may by ordinance impose a regulatory license fee upon the gross receipts of each establishment located therein and licensed to sell distilled spirits, wine, or malt beverages by the drink for consumption on the premises. The regulatory license fee may be levied annually at a rate as shall be reasonably estimated to fully reimburse the city or county for the estimated costs for any additional policing, regulatory, or administrative related expenses. The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against the fee shall be allowed in an amount equal to any licenses or fees imposed by the city or county pursuant to Section 55 of this Act.***

➔Section 57. KRS 243.090 is amended to read as follows:

- (1) All licenses issued by the department, except special event ***licenses***, ~~or~~ temporary licenses, ***or licenses listed in subsection (4) of this section***, shall be valid for a period of no more than a year. ~~All licenses shall expire on June 30 of each year until the licensee is notified by the department that a renewal system with staggered dates~~

~~has been implemented.~~ The department shall promulgate administrative regulations establishing the year-round system for renewal of licenses. The system shall be designed to distribute the workload as uniformly as possible within the offices of the local administrators and the Department of Alcoholic Beverage Control.

- (2) When any person applies for a new license authorized ~~to be issued~~ under KRS **Chapters 241 to 244** ~~[243.020 to 243.670]~~, he *or she* shall be charged, if the license is issued, the full fee for the respective license if six (6) months or more remain before the license is due to be renewed and one-half (1/2) the fee if less than six (6) months remain before the license is due to be renewed. No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.
- (3) The renewal by the department of the certificate or permit of any alcoholic beverage license shall not be construed to waive or condone any violation that occurred prior to the renewal and shall not prevent subsequent proceedings against the licensee.
- (4) **All alcoholic beverage producers, wholesalers, or distributors may obtain or renew their licenses for either a one (1) year term or a two (2) year term.**

➔Section 58. KRS 243.110 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, each kind of license listed in KRS 243.030 shall be incompatible with every other kind listed in that section and no person or entity holding a license of any of those kinds shall apply for or hold a license of another kind listed in KRS 243.030.
- (2) The holder of a *quota* retail package license may also hold ~~either~~ a *quota* retail drink license, an *NQ2 retail drink license*, or a special *nonbeverage* ~~[nonindustrial]~~ alcohol license. The holder of a transporter's license may also hold a *distilled spirits and wine* ~~[special]~~ storage ~~or warehouse~~ license. ~~The holder of a wholesaler's license may also hold a special nonbeverage alcohol vendor's license.~~ The holder of a distiller's license may also hold a rectifier's license, a special *nonbeverage* ~~[industrial]~~ alcohol license, or a *winery* ~~[vintner's]~~ license ~~, and a souvenir retail liquor license.~~ A commercial airline system or charter flight system retail license, a commercial airline system or charter flight system transporter's license, and a retail drink license if held by a commercial airline or charter flight system may be held by the same person or corporation. **A Sunday retail drink license and supplemental license may be held by the holder of a primary license.**
- (3) Any person may hold two (2) or more licenses of the same kind.
- (4) A person or entity shall not evade the prohibition against applying for or holding licenses of two (2) kinds by applying for a second license through or under the name of a different person or entity. The state director shall examine the ownership and management of applicants, and shall deny the application for a license if the applicant is substantially interested in a person or entity that holds an incompatible license.

➔Section 59. KRS 243.120 is amended to read as follows:

A distiller's, rectifier's, or *winery* ~~[vintner's]~~ license shall authorize the licensee to engage in the business of distiller, rectifier, or *winery* ~~[vintner]~~ at the premises specifically designated in the license, to maintain aging warehouses, and to transport for himself or herself only any alcoholic beverage which he or she is authorized under the license to manufacture or sell. The licensee shall transport alcoholic beverages only by a vehicle operated by himself or herself, which has affixed to its sides at all times a sign of form and size prescribed by the state board, containing among other things the name and license number of the licensee. No distilled spirits or wine shall be transported on the same truck or vehicle with malt beverages, except by a common carrier, unless the owner of the truck or vehicle holds a distributor's license.

➔Section 60. KRS 243.130 is amended to read as follows:

- (1) Sales and deliveries of distilled spirits and wine may be made at wholesale, and from the licensed premises only:
 - (a) By distillers to rectifiers, *wineries* ~~[vintners]~~, holders of special nonbeverage alcohol licenses so far as they may make the purchases, or other distillers;
 - (b) By rectifiers to *wineries* ~~[vintners]~~ or to distillers if distilled spirits sold to distillers are packaged in retail containers;
 - (c) By *wineries* ~~[vintners]~~ to rectifiers or other *wineries* ~~[vintners]~~, or to the holders of special nonbeverage alcohol licenses;

- (d) By distillers, rectifiers, or ~~wineries~~~~[vintners]~~ to wholesalers; or
 - (e) By distillers, rectifiers, or ~~wineries~~~~[vintners]~~ for export out of the state.
- (2) No distiller, rectifier, or ~~winery~~~~[vintner]~~ shall sell or contract to sell, give away, or deliver any alcoholic beverages to any person who is not authorized by the law of the state of his *or her* residence, and of the United States government if located in the United States, to receive and possess those alcoholic beverages. No distiller, rectifier, or ~~winery~~~~[vintner]~~ shall sell or contract to sell, give away, or deliver any of his *or her* products to any retailer or consumer in Kentucky.
 - (3) Distillers may purchase distilled spirits only from other licensed distillers in this state or in another state or province, but distillers may purchase from rectifiers licensed in Kentucky, distilled spirits which are packaged in retail containers.
 - (4) Rectifiers may purchase distilled spirits and wine only from licensed distillers or ~~wineries~~~~[vintners]~~ in Kentucky, or from nonresident distillers or ~~wineries~~~~[vintners]~~ authorized by the law of the state of their residence and by the United States government, if the distillers or ~~wineries~~~~[vintners]~~ are located in the United States, to make the sales.
 - (5) ~~Wineries~~~~[Vintners]~~ may purchase distilled spirits or wine only from licensed distillers or ~~wineries~~~~[vintners]~~ in Kentucky, or from nonresident distillers or ~~wineries~~~~[vintners]~~ authorized by law of the state of their residence, and by the United States government if located in the United States, to make the sales.
 - (6) Nothing shall prohibit the purchase or sale of warehouse receipts by any person, but this subsection does not authorize the owner of such a receipt to accept delivery of any distilled spirits unless the owner is a person who is permitted by law to receive the same.

➔Section 61. KRS 243.154 is amended to read as follows:

- (1) A small farm winery wholesaler's license shall authorize the licensee:
 - (a) To purchase, receive, store, or possess wine produced by small farm winery licensees;
 - (b) To sell the wine at wholesale from the licensed premises only; and
 - (c) To transport from the licensed premises for himself or herself only any wine produced by small farm winery licensees that the small farm winery wholesaler's license authorizes him or her to sell.
- (2) A small farm winery wholesaler licensed under this section shall:
 - (a) Transport the wine in the manner provided for manufacturers in KRS 243.120; and
 - (b) Transport the wine from a small farm winery's licensed premises or another wholesaler's premises to the small farm winery wholesaler's premises.
- (3) A small farm winery wholesaler licensed under this section shall not purchase, receive, store, possess, sell, or transport wine or distilled spirits, except as provided in this section, and shall comply with all provisions of the Kentucky Revised Statutes applicable to wholesalers licensed under *Section 45 of this Act*~~[KRS 243.030(6)]~~, to the extent the provisions are not inconsistent with this section.
- (4) A small farm winery wholesaler licensed under this section shall be allowed to have its licensed premises on or in the licensed premises of a small farm winery.

➔Section 62. KRS 243.155 is amended to read as follows:

- (1) Any in-state or out-of-state small farm winery may apply for a small farm winery license. In addition to all other licensing requirements, an applicant for a small farm winery license shall submit with its application a copy of the small farm winery's federal basic permit and proof documenting its annual wine production. An out-of-state winery shall submit additional documentation evidencing its resident state. As part of the application process, an out-of-state winery shall publish its notice of intent, as required by KRS 243.360, in the Kentucky newspaper of highest circulation. The department shall promulgate administrative regulations establishing the form the documentation of proof of production shall take.
- (2) A small farm winery license shall authorize the licensee to perform the following functions without having to obtain separate licenses, except that each small farm winery off-premises retail site shall be separately licensed:
 - (a) Manufacture wines and bottle wines produced by that small farm winery;

- (b) Bottle wines produced by another small farm winery;
 - (c) Serve on the premises or at small farm winery off-premise retail sites complimentary samples of wine produced by it in amounts not to exceed six (6) ounces per patron per day, if the small farm winery or its off-premise retail site is located in wet territory;
 - (d) Sell by the drink or by the package on premises, at small farm winery off-premise retail sites, and at fairs, festivals, and other similar types of events, wine produced on the premises of the small farm winery or produced by a licensed small farm winery, at retail to consumers if all sales sites are located in wet territory;
 - (e) Sell and transport wine produced on the premises of the small farm winery to wholesale license holders and small farm winery license holders;
 - (f) Consume on the premises wine produced by the small farm winery or a licensed small farm winery and purchased by the drink or by the package at the licensed premises, if the small farm winery is located in wet territory; and
 - (g) Ship to a customer wine produced by a small farm winery if:
 - 1. ~~1. The wine is purchased by the customer in person at the small farm winery;~~
 - 2. The wine is shipped by licensed common carrier; and
 - 2. ~~3.~~ The amount of wine shipped is limited to two (2) cases per customer per *order*~~[visit]~~.
- (3) If a licensed small farm winery is located in a dry *or moist* territory, KRS 242.230 to 242.430 shall apply, unless a *limited* local option election is held in accordance with *Section 5 of this Act*. ~~[the provisions of this subsection. A limited sale precinct election may be held in a precinct containing a licensed small farm winery or a proposed small farm winery located in a dry territory. The election shall be held in the same manner as prescribed by KRS 242.010 to 242.040 and 242.060 to 242.120. If the precinct contains a licensed small farm winery, the proposition to be voted on shall state, "Are you in favor of the sale of wine at the (name of the licensed small farm winery or wineries)?" If the precinct contains a proposed small farm winery or wineries, the proposition voted on shall state, "Are you in favor of the sale of wine at the (name of the proposed small farm winery or wineries)?"]~~ If the proposition *under Section 5 of this Act* is approved, a licensed small farm winery within the precinct may sell wine in accordance with subsection (2) of this section.
- (4) Other provisions of this chapter and KRS Chapter 244 notwithstanding, a small farm winery license holder may also hold *an NQ2 retail drink*~~[a restaurant wine]~~ license and *an NQ4*~~[a]~~ retail malt beverage *drink* license ~~if, provided,~~ the issuance of these licenses is in connection with the establishment and operation of a restaurant, hotel, inn, bed and breakfast, conference center, or any similar business enterprise *designed*~~[the purpose of which is]~~ to promote viticulture, enology, and tourism. ~~[The retail malt beverage license issued under this subsection shall limit the licensee to the sale of malt beverages for consumption on the premises only.]~~
- (5) This section shall not exempt the holder of a small farm winery license from the provisions of KRS Chapters 241, 242, 243, and 244, nor from the administrative regulations of the board, nor from regulation by the board at all premises licensed by the small farm winery, except as expressly stated in this section.
- (6) Nothing contained in this section shall exempt a licensed out-of-state winery from obeying the laws of its resident state.
- (7) ~~[Any person previously licensed as a small or farm winery under this chapter prior to January 1, 2007, shall hereby be authorized to conduct business as a small farm winery licensee, until such time as the term of his or her small or farm winery license expires.]~~ Upon the *approval of the department*, ~~[expiration of the term remaining on his or her small or farm winery license, a licensee who is in good standing shall be issued]~~ a small farm winery license *may be renewed*~~[as part of the renewal process]~~ after *the licensee*~~[he or she]~~ submits to the department the winery's federal basic permit and proof of its annual wine production.

➔SECTION 63. KRS 243.160 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

- (1) *A licensed wholesaler may purchase, receive, store, or possess distilled spirits and wine to sell at wholesale, from the licensed premises only, and to transport from the licensed premises for himself or herself only any alcoholic beverage that the wholesaler's license authorizes the licensee to sell. The wholesaler may transport:*
- (a) *Beverages in the manner provided for manufacturers in Section 59 of this Act; and*

(b) *Distilled spirits and wine from a manufacturer's warehouse or from another licensed wholesaler's premises to his or her licensed premises, if consumer's spirits stamps have been properly affixed to the spirits or wine that the wholesaler transports.*

(2) *The holder of a wholesaler's license may sell his or her products to the holder of a special nonbeverage alcohol license.*

➔Section 64. KRS 243.170 is amended to read as follows:

(1) A wholesaler may sell, deliver, and transport distilled spirits and wine at wholesale, and from the licensed premises only, to:

(a) Other wholesalers;~~;~~

(b) Retailers; ~~or~~

(c) A point out of the state to persons authorized by the law of the state of their residence, and by the United States government if located in the United States, to receive the distilled spirits and wine.

(2) A wholesaler may purchase distilled spirits and wine at wholesale from licensed distillers, rectifiers, ~~wineries,~~ ~~winners~~ or other wholesalers and from nonresidents authorized by the law of the states of their residence, and by the United States government if located in the United States, to make the sales. A wholesaler may not transport distilled spirits and wine from any point to his *or her* own licensed premises, except as provided in subsection ~~(2)~~~~(4)~~ of KRS 243.200.

(3) No wholesaler shall sell or contract to sell, give away, or deliver any distilled spirits or wine to any person in Kentucky who is not licensed to receive, possess, distribute, or sell distilled spirits and wine, and *no wholesaler* ~~in no event~~ shall ~~he~~ sell or contract to sell, give away, or deliver any distilled spirits or wine to any consumer. This section does not permit sales or deliveries of distilled spirits in Kentucky by licensed wholesalers to nonresidents who are not licensed by their own states.

(4) A wholesaler may extend credit on distilled spirits and wine sold to retail licensees for a period not to exceed thirty (30) days from the date of invoice, with the date of invoice included in the total number of days. When the thirty (30) day period has passed without payment in full, no wholesaler shall sell to the licensee except for cash on delivery.

➔Section 65. KRS 243.180 is amended to read as follows:

(1) A distributor's license shall authorize the licensee to:

(a) Purchase malt beverages from Kentucky breweries or from out-of-state breweries or distributors licensed to do business by the state in which they are located;~~;~~

(b) Import a non-United States brand malt beverage from an importer or wholesaler registered with the Kentucky Department of Revenue;

(c) *Sell his or her products to the holder of a special nonbeverage alcohol license;* or

(d) Store malt beverages and to sell them only, from the licensed premises, to other distributors, to licensed retailers, to any of its employees for home consumption, and ~~also~~ to charitable or fraternal organizations holding group meetings, picnics, or outings.

(2) A distributor shall transport malt beverages only by a vehicle owned, rented, or leased and operated by *the distributor* ~~himself~~, which has affixed to its sides at all times a sign of form and size prescribed by the state board, containing among other things the name and license number of the licensee. No distilled spirits or wine shall be transported on the same truck or vehicle with malt beverages, except by a common carrier, unless the owner of such truck or vehicle holds a wholesaler's license.

(3) A distributor's license must be obtained for each separate warehouse, agent, distributor, broker, jobber, or place of business from which orders are received or beverages are distributed unless it is a licensed brewery.

➔Section 66. KRS 243.200 is amended to read as follows:

~~(1) A distilled spirits and wine transporter's license shall authorize the licensee to transport distilled spirits and wine to or from the licensed premises of any licensee under KRS 243.020 to 243.670 if both the consignor and consignee in each case are authorized by the law of the states of their residence to sell, purchase, ship or receive the alcoholic beverages.~~

- (2) ~~A distilled spirits and wine transporter's license shall be issued only to persons authorized by proper certificate from the Department of Vehicle Regulation to engage in the business of common carrier.~~
- (3) ~~No person except a railroad company or railway express company shall transport or cause to be transported any distilled spirits or wine, unless expressly authorized to do so by law.~~
- (2) ~~(4)~~ Distilled spirits and wine may be transported by the holder of any license authorized ~~by KRS 243.030 from and~~ to **transport distilled spirits and wine to and from** express or freight depots ~~to~~ and ~~from~~ the **licensee's** premises ~~covered by the license of the person so transporting distilled spirits or wine~~.
- (3) ~~(5)~~ A licensed alcoholic beverage store operator may move, within the same county, alcoholic beverages from one of the operator's licensed stores to another without a transporter's license. However, the licensed store operator shall keep and maintain, in one (1) of his or her stores in that county, adequate books and records of the transactions involved in transporting alcoholic beverages from one (1) licensed store to another in accordance with standards established in administrative regulations promulgated by the board. The records shall be available to the department and the Department of Revenue upon request.
- (4) ~~(6)~~ Distilled spirits and wine may be transported by **any licensed retailer selling distilled spirits or wine, by the package or by the drink**, ~~the holder of any retail package or drink license issued under KRS 243.030~~ from the premises of a licensed wholesaler to the licensed premises of the retail licensee. Any retailer transporting alcoholic beverages under this subsection shall do so in a vehicle marked in conformity with administrative regulations of the department. Both the wholesaler and the retailer engaging in activity under this subsection shall be responsible for maintaining records documenting the transactions.

➔Section 67. KRS 243.230 is amended to read as follows:

- (1) **Quota retail drink licenses and NQ2 retail drink licenses** ~~to sell distilled spirits and wine by the drink for consumption on the premises~~ may be issued only for premises located within cities of the first, second, or third class, or elsewhere in counties containing a city of the first, second, or third class if those counties maintain an adequate police force under KRS 70.540 and 70.150 to 70.170.
- (2) **Notwithstanding subsection (1) of this section, an NQ2 retail drink license may be issued to a restaurant with seating for fifty (50) patrons at tables in any wet territory, but a license issued under this subsection shall only have the privileges of a license issued under subsection (3) of Section 41 of this Act.**
- (3) Notwithstanding **subsection (1) of this section, quota retail drink licenses and NQ2 retail drink licenses** ~~any other provision of law, a liquor by the drink license to sell distilled spirits and wine for consumption on the premises~~ may be issued for premises located within a city of the fourth class in which the majority of votes cast in the most recent election held under KRS 242.127 and 242.129 were in favor of the proposition voted upon if the city has an adequate police force under KRS 95.710 and 95.760 to 95.787.
- (4) **Notwithstanding subsection (1) of this section, NQ2 retail drink licenses may be issued to qualifying premises located within a city of the fourth class, or in a county containing a city of the fourth class, if the city or county has enacted an economic hardship ordinance under Section 31 of this Act.**
- (5) ~~(3)~~ **Quota retail package licenses** ~~to sell distilled spirits or wine by the package~~ may be issued only for premises located within incorporated cities, or elsewhere in counties containing a city of the first, second, or third class if those counties maintain an adequate police force under KRS 70.540 and 70.150 to 70.170.
- (6) ~~(4)~~ Notwithstanding subsection (5) ~~(3)~~ of this section, the **department** ~~board~~ may, after a field investigation, issue a **quota retail package** license to ~~sell distilled spirits and wine by the package at~~ premises not located within any city if:
- Substantial aggregations of population would otherwise not have reasonable access to a licensed vendor;
 - The premises to be licensed under this subsection shall be used exclusively for the sale of distilled spirits and wine by the package and malt beverages, where applicable, and shall not be used in any manner, in connection with a dance hall, roadhouse, restaurant, store, or any other commercial enterprise, except as a drug store in which a registered pharmacist is employed.
- (7) ~~(5)~~ No **quota** retail package **license** or **quota retail** drink license for the sale of distilled spirits or wine shall be issued for any premises used as or in connection with the operation of any business in which a substantial part of the commercial transaction consists of selling at retail staple groceries or gasoline and lubricating oil.

➔Section 68. KRS 243.240 is amended to read as follows:

A ~~*quota*~~ ~~[distilled spirits and wine]~~ retail package license shall authorize the licensee to purchase, receive, possess, and sell distilled spirits and wine at retail in unbroken packages only, and only for consumption off the licensed premises. Such a licensee shall purchase distilled spirits and wine in retail packages only and only from licensed wholesalers. *The licensee* ~~[He]~~ may sell only to consumers and may make deliveries only at the premises designated in his *or her* license. *The holder of a quota retail package license may also hold a nonquota retail malt beverage package license.*

→Section 69. KRS 243.250 is amended to read as follows:

A ~~*quota*~~ ~~[distilled spirits and wine]~~ retail drink license shall authorize the licensee to purchase, receive, possess, and sell distilled spirits and wine at retail by the drink for consumption on the licensed premises. The licensee shall purchase distilled spirits and wine only from licensed wholesalers, and unless he or she also holds a *quota* retail package license, he or she shall not buy or possess distilled spirits or wine in containers smaller than two hundred (200) milliliters. A licensee may purchase wine in containers not smaller than one hundred (100) milliliters if the wine does not exceed fourteen percent (14%) alcohol by volume and the *quota* retail drink license is held by a restaurant or private club which receives a minimum of fifty percent (50%) of its food and beverage income from the sale of food and has a minimum seating capacity of fifty (50) people at tables. A licensee may buy mixed drinks in containers of a capacity not smaller than three hundred fifty-five (355) milliliters if the mixed drinks contain a substantial proportion of carbonated water. A *quota* retail drink license shall not authorize the licensee to sell distilled spirits or wine by the package. *The holder of a quota retail drink license may also hold a NQ4 retail malt beverage drink license.*

→Section 70. KRS 243.260 is amended to read as follows:

- (1) A ~~[distilled spirits and wine]~~ special temporary license ~~[or a special temporary wine license]~~ may be issued *in wet territory* to any regularly organized fair, exposition, racing association, or other party, when in the opinion of the board a necessity therefor exists. This license shall authorize the licensee to exercise the privileges of a ~~*quota*~~ ~~[distilled spirits and wine]~~ retail drink licensee *and an NQ4 retail malt beverage drink licensee* at designated premises for a specified and limited time, not to exceed thirty (30) days, *and shall expire when the qualifying event ends* ~~[; except that the special temporary wine license shall apply to wine sales only]~~. All restrictions and prohibitions applying to a distilled spirits and wine *quota* retail drink licensee *or an NQ4 retail malt beverage drink license* shall apply also to a special temporary licensee.
- (2) A nonprofit organization holding *an NQ4* ~~[a]~~ retail malt beverage *drink* license may be issued a ~~[distilled spirits and wine]~~ special temporary license ~~[or a special temporary wine license]~~ to sell distilled spirits and wine by the drink on the licensed premises for a specified and limited time, not to exceed ten (10) days. The temporary license may be issued in conjunction with any public or private event, including but not limited to weddings, reception, reunions, or similar occasions.
- (3) *The holder of a special temporary license may sell, serve, and deliver distilled spirits, wine, or malt beverages by the drink, for consumption at the event only in a city of the first, second, or third class, or a county containing a city of the first, second, or third class, or a city of the fourth class approving retail distilled spirits and wine sales under Section 16 of this Act and KRS 242.129.*
- (4) *The holder of a special temporary license may only sell, serve, and deliver wine or malt beverages by the drink, for consumption at an event located in all other cities and counties not identified in subsection (3) of this section.*
- (5) *A special temporary license shall not be issued for an event held in moist territory where only limited alcoholic beverages drink sales have been approved through a moist local option election.*

→Section 71. KRS 243.280 is amended to read as follows:

- (1) A *nonquota retail malt beverage package* ~~[retailer's]~~ license shall authorize the licensee to:
 - (a) Sell malt beverages at retail *by the package* from the licensed premises only *for consumption off the licensed premises only*; and
 - (b) ~~[to]~~ Purchase malt beverages only from a distributor.
- (2) *The holder of a quota retail package license under Section 68 of this Act may also obtain a license under this section.*
- (3) *The holder of a nonquota retail malt beverage package license may also hold a NQ4 retail malt beverage drink license.*

(4) A *nonquota retail* malt beverage ~~package~~~~retailer's~~ license shall not be issued to sell malt beverages at retail for any premises from which gasoline and lubricating oil are sold or from which the servicing and repair of motor vehicles is conducted, unless there is maintained in inventory on the premises for sale at retail not less than five thousand dollars (\$5,000) of food, groceries, and related products valued at cost.

(5)~~(3)~~ The term "food and groceries" means:

- (a) Any food or food product intended for human consumption except alcoholic beverages, tobacco, hot foods, and hot food products prepared for immediate consumption;
- (b) Seeds and plants to grow food for personal consumption.

(6)~~(4)~~ The provisions of this section shall not apply to any licensed premises which sells no fuel other than marine fuel.

➔Section 72. KRS 243.320 is amended to read as follows:

(1) A special *nonbeverage*~~industrial~~ alcohol license shall authorize the holder to purchase alcohol *for nonbeverage purposes* only from the holder of a distiller's license, *wholesaler's license*, or *distributor's*~~special nonbeverage alcohol vendor's~~ license and possess alcohol for use in the manufacture and sale of any of the following products, when they are unfit for beverage purposes:

- (a) Denatured alcohol produced, and sold pursuant to Acts of Congress and regulations promulgated thereunder;
- (b) Patent, proprietary, medicinal, pharmaceutical, antiseptic, and toilet preparations;
- (c) Flavoring extracts, syrups, and food products; and
- (d) Scientific, chemical, mechanical, and industrial products.

(2) KRS Chapter 242 shall not prevent the issuance of special *nonbeverage*~~industrial~~ alcohol licenses to persons located in *dry or moist*~~local option~~ territory nor prevent licensees from exercising the privileges granted in the license.

(3) *A special nonbeverage alcohol license may also be issued to any duly authorized and bona fide hospital, museum, laboratory, charitable, educational, or similar public or private institution, to a drug store employing a licensed pharmacist, or to a licensed physician. The license shall authorize the licensee to purchase or possess alcohol and to use it only for nonbeverage purposes.*

(4) *The holder of a special nonbeverage alcohol license may produce, possess, and use alcohol in the manufacture of ethanol if the holder also holds a basic permit from the applicable federal agency authorizing ethanol production.*

➔Section 73. KRS 243.340 is amended to read as follows:

(1) A special agent's or solicitor's license may be issued to a duly authorized representative, employee, or agent of, or solicitor for a distiller, rectifier, *winery*~~vintner~~, or wholesaler licensed in Kentucky or by the state of his *or her* residence and by the United States if a resident therein. The license shall authorize the licensee to offer for sale and to solicit orders for the sale of any alcoholic beverage sold by a distiller, rectifier, *winery*~~vintner~~, or wholesaler who is licensed in Kentucky or who is a nonresident. The license shall set forth the name, address, and, unless the vendor is a nonresident, the license numbers of the vendors the agent or solicitor represents, as well as the name, address, and license number of the agent or solicitor. An agent or solicitor shall not represent any vendor or licensee whose name does not appear upon the license or the application for the license.

(2) *A special agent's or solicitor's license may be issued to a nonresident of this state. The license shall authorize the nonresident to represent a manufacturer, winery, or wholesaler who is licensed by another state and by the federal government, if the nonresident has been issued a license by another state conferring privileges similar to a special agent's or solicitor's license authorized by subsection (1) of this section. If the state of residence of the applicant does not issue a similar license, the application filed with the department shall not be accepted without the approval of the alcoholic beverage control agency of the state of the applicant's residence.*

➔Section 74. KRS 243.360 is amended to read as follows:

(1) Any person, corporation, partnership, or any other entity, except an applicant for the same license for the same premises, or an applicant for an out-of-state *malt beverage supplier's*~~brewer's~~ license, *limited out-of-state malt beverage supplier's license, out-of-state distilled spirits and wine supplier's license, limited out-of-state*

distilled spirits and wine supplier's license, supplemental bar license, extended hours supplemental license, a special agent or solicitor's license, a bonded warehouse license, a freight forwarding license, a storage warehouse license, an industrial alcohol license, a nonindustrial alcohol license, a storage warehouse license, a nonbeverage license, a vendor license, a transporter's license, a Sunday license, or a temporary drink license shall, before applying for a license under KRS 243.030 and 243.040, advertise by publication under KRS 424.130(1)(b) his or her intention to apply for a license.

- (2) The notice shall conform in all material respects to the following requirements:
 - (a) The notice shall state: the name and address of the applicant if the applicant is an individual, the name and address of each partner and the name of the business and its address if the applicant is a partnership, and the name and address of each principal officer and director and the name and business address of the corporation if the applicant is a corporation;
 - (b) The notice shall specifically state the location of the premises for which the license is sought and the type of license being requested; and
 - (c) The notice shall state the date the application will be filed and shall contain the following statement: "Any person, association, corporation, or body politic may protest the granting of the license by writing the Department of Alcoholic Beverage Control, 1003 Twilight Trail, Suite A-2, Frankfort, Kentucky 40601, within thirty (30) days of the date of legal publication."
- (3) Any protest received after the thirty (30) day period has expired shall not be considered a valid legal protest by the board.

➔Section 75. KRS 243.380 is amended to read as follows:

- (1) Applications for *distilled spirit and wine* licenses provided for in KRS *Chapters 241 to 244*~~[243.030 and 243.050]~~ shall be made to the director of the Division of Distilled Spirits. Applications for *malt beverage* licenses provided for in KRS *Chapters 241 to 244*~~[243.040]~~ shall be made to the director of the Division of Malt Beverages. *Applications for distilled spirits, wine, and malt beverage licenses provided for in KRS Chapters 241 to 244 shall be made to the director of the Division of Distilled Spirits and to the director of the Division of Malt Beverages.*
- (2) All applications shall be on forms furnished by the department. They shall be verified and shall set forth in detail ~~all[such]~~ information concerning the applicant and the premises *submitted for licensing*~~[for which the license is sought]~~ as the board *requires* by *administrative* regulation~~[requires]~~. Each application shall be accompanied by payment. Payment of the license fee may be by certified check, cash, a postal or express money order, or any other method of payment approved in writing by both the Finance and Administration Cabinet and the Office of the State Treasurer. Promptly upon receipt *of the payment*~~[thereof]~~ the board shall pay ~~it[the same]~~ into the State Treasury, giving the Department of Revenue copies of the pay-in vouchers and ~~any[such]~~ other supporting data as the Department of Revenue *requires*~~[may require]~~ for revenue control purposes.
- (3) *A business entity that owns more than two (2) licensed premises shall initially submit common information about ownership, officers, directors, managerial employees, and shall provide current criminal background checks once for all separately licensed premises in one (1) master file. Any business qualifying under this subsection shall only be required to amend its master file information for material changes under KRS 243.390(2) or ownership transfers under KRS 243.630.*

➔Section 76. KRS 243.480 is amended to read as follows:

- (1) Upon proceedings for the revocation of any license under KRS 243.520, the Alcoholic Beverage Control Board, or the local alcoholic beverage administrator, may in its or his or her discretion order a suspension of the license for any cause for which it may, but is not required to, revoke the license under the provisions of KRS 243.490 and 243.500. However, the licensee may have the alternative, subject to the approval of the Alcoholic Beverage Control Board or the local alcoholic beverage administrator, to pay in lieu of part or all of the days of any suspension period, a sum as follows: Distillers, rectifiers, ~~wineries~~~~[wineries]~~, *and* brewers, ~~and blenders,~~ one thousand dollars (\$1,000) per day; wholesale liquor licensees, four hundred dollars (\$400) per day; wholesale beer licensees, four hundred dollars (\$400) per day; retail licensees authorized to sell distilled spirits, wine, or beer by the package or drink, fifty dollars (\$50) per day; and all remaining licensees, fifty dollars (\$50) per day.
- (2) Payments in lieu of suspension or for board-ordered agency server training, collected on a cost recovery basis, collected by the Alcoholic Beverage Control Board shall be deposited in the State Treasury and credited to the

general expenditure fund. Payments in lieu of suspension collected by local alcoholic beverage administrators shall be deposited and used as local alcoholic beverage license tax receipts are deposited and used.

- (3) In addition to or in lieu of a suspension of a license, the board may order a licensee to pay for and require attendance and completion by some or all of the licensee's alcoholic beverage servers in the department's server training program.
- (4) Appeals from orders of suspension and the procedure thereon shall be the same as are provided for orders of revocation in KRS Chapter 13B.

➔Section 77. KRS 243.540 is amended to read as follows:

- (1) The provisions of this section shall apply to any licensee who is unable to continue in business at the licensed premises because of an act of God; a casualty; an acquisition by a federal, state, city, or other governmental agency under the power of eminent domain granted to the government or agency; a voluntary or involuntary acquisition by any private corporation through the corporation's power of eminent domain; a loss of lease because the landlord fails to renew an existing lease; court action; or other verifiable business reason.
- (2) If a license issued by the department has been revoked, the former licensee may, under the supervision of the state director, dispose of and transfer his or her stock to another licensee if the disposition is completed within ninety (90) days and the licensee is a distiller, rectifier, ~~winery~~ ~~winery~~, or brewer. The disposition shall be completed within thirty (30) days if the licensee is a wholesaler or distributor or within twenty (20) days if the licensee is a retailer.
- (3) A retail licensee in good standing with the department who voluntarily ceases to operate his or her business for any reason other than revocation by the board or a court order shall dispose of all alcoholic beverage inventory within thirty (30) days of the event. The following requirements shall apply to the disposition of the licensee's inventory:
 - (a) If the premises is still open to the public and the licensee has not yet surrendered the license, the licensee shall sell alcoholic beverages only to the public and shall not sell below costs;
 - (b) If a licensee has terminated his or her business and has surrendered his or her license to the department, he or she shall submit a written request for approval from the state director within ten (10) days in advance of the sale to dispose of the licensee's remaining inventory. The request shall identify the retailer who is purchasing the inventory, the proposed date of the sale, and the quantity, types, and brands of alcohol to be sold; and
 - (c) If a licensee has more than one (1) licensed retail premises and closes one (1) or more retail premises and seeks to transfer his or her inventory to another licensed retail premises he or she owns, he or she shall submit a request in writing to the state director at least ten (10) days before the inventory is transferred. The request shall identify the premises to which the alcohol is being transferred, the proposed date of the transfer, and the quantity, types, and brands of alcohol to be sold.
- (4) If a retail licensee files for bankruptcy or is directed by a court to dispose of inventory to satisfy a lien or judgment, the inventory may be sold only to a retail alcoholic beverage licensee. The bankrupt licensee or the licensee subject to the court order shall notify the department of the sale and shall attach a copy of the court order or the judgment directing the sale and a list of the quantity, types, and brands of alcohol to be sold. Any licensee who purchases the inventory shall notify the department within five (5) days after the transfer of the specific inventory sold.

➔Section 78. KRS 243.720 is amended to read as follows:

- (1) (a) There is levied upon the use, sale, or distribution by sale or gift of distilled spirits a tax of one dollar and ninety-two cents (\$1.92) on each wine gallon of distilled spirits, and a proportional rate per gallon on all distilled spirits used, sold, or distributed in any container of more or less than one (1) gallon, but the rate of the excise tax on spirits in retail containers of one-half (1/2) pint shall be twelve cents (\$0.12); and
 - (b) Notwithstanding the provisions of paragraph (a) of this subsection, distilled spirits placed in containers for sale at retail, where the distilled spirits represent six percent (6%) or less of the total volume of the contents of such containers, shall be taxed at the rate of twenty-five cents (\$0.25) per gallon.
- (2) There is levied upon the use, sale, or distribution by sale or gift of wine, a tax of fifty cents (\$0.50) on each gallon of wine, and a proportional rate per gallon on the wine used, sold, or distributed in any container of

more or less than one (1) gallon, but ~~in no event shall~~ the tax **shall not** be less than four cents (\$0.04) on the sale or distribution of any retail container of wine.

- (3) (a) There is levied upon the sale or distribution by sale or gift of malt beverages an excise tax of two dollars and fifty cents (\$2.50) on each barrel of thirty-one (31) gallons and a proportional rate per gallon on malt beverages sold or distributed in any container of more or less than thirty-one (31) gallons;
- (b) Each brewer producing malt beverages in this state shall be entitled to a credit of fifty percent (50%) of the tax levied on each barrel of malt beverages sold in this state, up to three hundred thousand (300,000) barrels per annum.
- (4) This section shall not apply to:
 - (a) Wine manufactured, sold, given away, or distributed and used solely for sacramental purposes; or
 - (b) Distilled spirits and wine purchased by holders of special licenses provided for in KRS 243.320 ~~and 243.330~~ and purchased and used in the manner authorized by those licenses.

➔ Section 79. KRS 243.730 is amended to read as follows:

- (1) (a) Wholesalers of distilled spirits and wine shall pay and report the tax levied by KRS 243.720(1) and (2) on or before the twentieth day of the calendar month next succeeding the month in which possession or title of the distilled spirits and wine is transferred from the wholesaler to retailers or consumers in this state, in accordance with rules and regulations of the Department of Revenue designed reasonably to protect the revenues of the Commonwealth.
- (b) Distributors or retailers of malt beverages, who purchase malt beverages directly from a brewer, shall pay and report the tax levied by KRS 243.720(3) on or before the twentieth day of the calendar month next succeeding the month in which the brewer sells, transfers, or passes title of the malt beverage to the distributor or retailer, in accordance with rules and regulations of the Department of Revenue designed reasonably to protect the revenues of the Commonwealth. The credit allowed brewers in this state, under the provisions of KRS 243.720(3)(b), shall flow through to the distributor or retailer who purchases malt beverages directly from the brewer. If a brewer sells, transfers, or passes title to malt beverages to any of its employees for home consumption or to any charitable or fraternal organization pursuant to the provisions of KRS 243.150, the brewer shall be responsible for paying and reporting the tax levied by KRS 243.720(3) in accordance with the provisions of subsection (c) of this section.
- (c) Every brewer selling, transferring, or passing title to malt beverages to any person in this state other than a distributor or retailer, and every other person selling, transferring, or passing title of distilled spirits, wine, or malt beverages to distributors, retailers, or consumers shall report and pay the tax levied by KRS 243.720(1), (2), or (3) on or before the twentieth day of the calendar month next succeeding the month in which possession or title of distilled spirits, wine, or malt beverages is transferred to a distributor, retailer, or consumer in this state, in accordance with rules and regulations of the Department of Revenue designed reasonably to protect the revenues of the Commonwealth.
- (d) Every distributor, retailer, or consumer possessing, using, selling, or distributing distilled spirits, wine, or malt beverages in this state upon which the tax levied by KRS 243.720(1), (2), or (3) and KRS 243.884 has not been paid shall be jointly and severally liable for reporting and paying the tax due, in accordance with rules and regulations of the Department of Revenue designed reasonably to protect the revenues of the Commonwealth. Such liability shall not be extinguished until the tax has been paid to the Department of Revenue.
- (e) Notwithstanding the provisions of paragraph (a) of this subsection, every owner of a small farm winery shall pay and report the tax levied by KRS 243.720 (1) and (2) on a quarterly basis, in accordance with administrative regulations of the Department of Revenue designed reasonably to protect the revenues of the Commonwealth.
- (2) Every wholesaler of distilled spirits or wine before using, selling, or distributing by sale or gift distilled spirits and wine shall qualify with the Department of Revenue. ~~[In order to so qualify, each wholesaler shall furnish to the Department of Revenue a certified copy of the bond required to be filed with the Department of Alcoholic Beverage Control under the provisions of KRS 243.400(2).]~~
- (3) ~~[Notwithstanding the provisions of KRS 243.400(1).]~~ Every brewer before selling or distributing by sale or gift malt beverages, or before importing malt beverages into the state, shall qualify with the Department of Revenue in such manner as the Department of Revenue may require.

~~{(4) The Department of Revenue shall have the power to require a bond from any other person liable for Kentucky distilled spirits, wine, or malt beverage taxes provided such person is not otherwise required to post a bond under the provisions of this section. The amount of the bond for persons liable for Kentucky distilled spirits or wine taxes shall be computed as provided in KRS 243.400(2). The amount of the bond for persons liable for Kentucky malt beverage taxes shall be in the minimum amount of one thousand dollars (\$1,000) or an amount equal to three (3) times the person's average monthly Kentucky malt beverage tax liability, whichever is greater. The bond shall be on a form prescribed by the Department of Revenue and have corporate surety registered by the Department of Insurance. The person liable for the tax shall be the principal obligor and the state the obligee. The bond shall be conditioned upon the prompt payment by the person to the Department of Revenue of all malt beverage taxes due, with penalties and interest.}~~

➔Section 80. KRS 243.990 is amended to read as follows:

- (1) Any person who, by himself or herself or acting through another, directly or indirectly, violates any of the provisions of KRS 243.020 to 243.670, for which no other penalty is provided, shall, for the first offense, be guilty of a Class B misdemeanor; and for the second and each subsequent violation, he or she shall be guilty of a Class A misdemeanor. The penalties provided for in this subsection shall be in addition to the revocation of the offender's license.
- (2) Any person who, by himself or herself or through another, directly or indirectly, violates subsection (1) of KRS 243.020 shall, for the first offense, be guilty of a Class B misdemeanor; for the second offense, he or she shall be guilty of a Class A misdemeanor; and for the third and each subsequent offense, he or she shall be guilty of a Class D felony.
- (3) Any person who violates subsection (3) of KRS 243.020 shall be guilty of a violation.
- (4) Any person who violates KRS 243.620 with respect to a license issued under KRS 243.050 *or Section 40 of this Act* shall be guilty of a violation.
- (5) Any person who violates any of the provisions of KRS 243.720 or 243.730 or any regulation issued thereunder shall be guilty of a Class A misdemeanor.
- (6) Any person who violates any provision of KRS 243.710 to 243.850 shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180.
- (7) In every case, any tax imposed by KRS 243.710 to 243.720 which is not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the due date until the date of payment.
- (8) Any person who, by himself or herself or acting through another, directly or indirectly, violates KRS 243.502(1) shall, for the first offense, be guilty of a Class B misdemeanor, and for the second and each subsequent violation, he or she shall be guilty of a Class A misdemeanor. The penalties provided for in this subsection shall be in addition to the suspension or revocation of the offender's license.
- (9) Any person who violates the provisions of KRS 243.897 shall be subject to a fine not to exceed one thousand dollars (\$1,000).

➔SECTION 81. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

- (1) *A person shall be immune from prosecution for the criminal offenses identified in subsection (2) of this section if:*
 - (a) *A law enforcement officer has contact with the person because the person:*
 1. *Requests emergency medical assistance for himself or herself or another person;*
 2. *Acts in concert with another person who requests emergency medical assistance; or*
 3. *Appears to be in need of emergency medical assistance and is the individual for whom the request is made;*
 - (b) *The request is made for an individual who reasonably appears to be in need of medical assistance due to alcohol consumption; and*
 - (c) *The person described in paragraph (a) of this subsection, if physically capable:*
 1. *Provides his or her own full name if requested by emergency medical assistance personnel or law enforcement officers;*

2. *Provides any other relevant information requested by the law enforcement officer that is known to such person;*
 3. *Remains with, or is, the individual who reasonably appears to be in need of medical assistance due to alcohol consumption until professional emergency medical assistance is provided; and*
 4. *Cooperates with emergency medical assistance personnel and law enforcement officers.*
- (2) *A person who meets the qualifications set forth in subsection (1) of this section shall be immune from criminal prosecution for the following offenses:*
- (a) *Alcohol intoxication under KRS 222.202(1);*
 - (b) *Drinking alcoholic beverages in a public place under KRS 222.202(2);*
 - (c) *Offenses related to possession of alcoholic beverages by a minor under twenty-one (21) years of age under KRS 244.085; and*
 - (d) *Providing alcohol to minors under twenty-one (21) years of age or assisting minors under twenty-one (21) years of age to purchase alcohol under KRS 244.085 or 530.070.*

➔Section 82. KRS 244.030 is amended to read as follows:

- (1) No licensee under KRS **Chapters 241 to 244**~~[243.020 to 243.670]~~ shall employ any canvasser or solicitor for the purpose of receiving an order from a consumer for any alcoholic beverages at the residence or place of business of the consumer, nor shall any such licensee receive or accept any order that has been solicited or received at the residence or place of business of the consumer.
- (2) Subsection (1) shall not prohibit the solicitation by a distiller, rectifier, brewer, or **winery**~~[vintner]~~ of an order from any wholesaler or distributor at the licensed premises of the wholesaler or distributor nor the solicitation by a wholesaler or distributor of an order from any retailer at the licensed premises.

➔Section 83. KRS 244.050 is amended to read as follows:

- (1) No retail licensee shall give away any alcoholic beverage in any quantity or deliver it in any quantity for less than a full monetary consideration, except as provided by KRS 243.155, 243.157, and subsection (2) of this section.
- (2) **The holder of a quota retail drink license, a quota retail package license, an NQ2 license, or a distillery license**~~[A retailer licensed to sell distilled spirits and wine under KRS 243.030(7), (8), or (26)]~~ may, after acquiring a **sampling** license~~[under KRS 243.030(39)]~~, allow customers to sample distilled spirits and wine under the following conditions:
 - (a) Sampling shall be permitted only on licensed premises and **by licensees holding a sampling license**~~[for licensees licensed under KRS 243.030(7), (8), or (26)]~~, during regular business hours;
 - (b) A licensee shall not charge for the samples provided to customers;
 - (c) Sample sizes shall not exceed:
 1. One (1) ounce for wine; and
 2. One-half (1/2) ounce for distilled spirits; and
 - (d) A licensee shall limit a customer to:
 1. Two (2) distilled spirits samples per day; and
 2. Six (6) wine samples per day.
- (3) Retailers **holding a sampling license**~~[licensed under KRS 243.030(7) or (8)]~~ shall:
 - (a) Notify the Department of Alcoholic Beverage Control at least seven (7) days in advance of conducting a sampling event; and
 - (b) Limit a sampling event to a period not to exceed four (4) consecutive hours between 12 noon and 8 p.m.

➔Section 84. KRS 244.090 is amended to read as follows:

- (1) A person holding any license under KRS **Chapters 241 to 244**~~[243.020 to 243.670]~~ shall not knowingly employ in connection with his or her business any person who:

- (a) Has been convicted of any felony within the last two (2) years. The provisions of this paragraph shall apply to any new applicant for a license issued under this chapter after July 15, 1998, but shall not apply to renewals of licenses that were originally issued prior to July 15, 1998, or supplemental licenses related to an original license if the original license was issued prior to July 15, 1998;
 - (b) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two (2) years;
 - (c) Is under the age of twenty (20) years, unless the person is employed:
 - 1. In a bottling house or room of a licensed distiller, ~~winery~~~~[vintner]~~, brewer, or rectifier;
 - 2. In an office of a wholesaler or manufacturer that is maintained in a building separate from the warehouses or factory or as provided in KRS 244.087; or
 - 3. In any of the following establishments, if the employment is in a capacity that does not involve the sale or serving of alcoholic beverages:
 - a. A restaurant that derives at least fifty percent (50%) of its food and beverage sales from the sale of food for consumption on the licensed premises; or
 - b. Any other establishment with alcoholic beverage sales not exceeding fifty percent (50%) of its gross sales.
 - (d) Within two (2) years prior to the date of his employment, has had any license issued under KRS ~~Chapters 241 to 244~~~~[243.020 to 243.670]~~ or under any other act or ordinance relating to the regulation of the manufacture, sale, or transportation of alcoholic beverages revoked for cause.
- (2) The provisions of paragraphs (a) and (b) of subsection (1) of this section shall not apply if the employee's duties do not involve the sale, service, delivery, or traffic in alcoholic beverages at the licensed premises.
 - (3) Violation of this section shall subject both employer and employee to penalties provided in this chapter and shall be cause for revocation of license.

➔Section 85. KRS 244.120 is amended to read as follows:

- (1) ***A retail licensee, a patron, or the licensee's agents, servants, or employees***~~[No person licensed to sell alcoholic beverages at retail]~~ shall ***not*** cause, suffer, or permit the licensed premises to be disorderly.
- (2) Acts which constitute disorderly premises consist of ***causing, suffering, or*** permitting patrons, ***the licensee, or the licensee's servants, agents, or employees*** to cause public inconvenience, annoyance, or alarm, or ***create***~~[wantonly creating]~~ a risk through:
 - (a) Engaging in fighting or in violent, tumultuous, or threatening behavior;~~[-or]~~
 - (b) Making unreasonable noise;~~[-or]~~
 - (c) Refusing to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard, or other emergency;~~[-or]~~
 - (d) Creating a hazardous or physically offensive condition by any act that serves no legitimate purpose;
 - (e) ***Creating a public nuisance;***
 - (f) ***Engaging in criminal activity that would constitute a capital offense, felony, or misdemeanor; or***
 - (g) ***Failing to maintain the minimum health, fire, safety, or sanitary standards established by the state or a local government, or by state administrative regulations, for the licensed premises.***

➔Section 86. KRS 244.167 is amended to read as follows:

- (1) It is unlawful:
 - (a) For any distiller, rectifier, ~~winery~~~~[vintner]~~, brewer, or importer to solicit, accept, or fill any order for any distilled spirits, wine, or malt beverage from any wholesaler or distributor in the Commonwealth of Kentucky unless the supplier is the primary source of supply for the brand of alcoholic beverage sold or sought to be sold.
 - (b) For any wholesaler, distributor, or any other licensee in this Commonwealth to order, purchase, or receive any alcoholic beverage from any supplier unless the supplier is the primary source of supply for the brand ordered, purchased, or received.

- (c) For a retailer to order, purchase, or receive any distilled, vinous, or malt alcoholic beverage from any source other than any of the following:
1. A wholesaler or distributor who has purchased the brand from the primary source of supply.
 2. A wholesaler or distributor who is the designated representative of the primary source of supply in this Commonwealth and who has purchased the alcoholic beverage from the designated representative of the primary source of supply within or without this Commonwealth.
- (d) For alcoholic beverages to be transported from a wholesaler's or distributor's warehouse within twenty-four (24) hours of the time they are unloaded.
- (2) The Department of Alcoholic Beverage Control may suspend for a period not to exceed one (1) year the license of any wholesaler, distributor, or retailer who violates the provisions of this section.
- (3) Upon determination by the Department of Alcoholic Beverage Control that a primary source of supply has violated the provisions of this section, no wholesaler, distributor, or retailer may accept any shipment of alcoholic beverages from the primary source of supply for a period of one (1) year.
- (4) For the purposes of this section, "primary source of supply" or "supplier" means the distiller, producer, brewer, owner of the commodity at the time it becomes a marketable product, bottler, or authorized agent of the brand owner. In the case of imported products, the primary source of supply means either the foreign producer, owner, bottler, or agent of the prime importer from, or the exclusive agent in, the United States of the foreign distiller, producer, bottler, or owner.

→Section 87. KRS 244.210 is amended to read as follows:

No person shall knowingly sell any alcoholic product intended for nonbeverage purposes under KRS 243.320 ~~or 243.330~~, under circumstances from which he *or she* might reasonably deduce the intention of the purchaser to use it for beverage purposes.

→Section 88. KRS 244.240 is amended to read as follows:

No distiller, rectifier, *winery*,~~winer~~ or wholesaler and no employee, servant, or agent of a distiller, rectifier, *winery*,~~winer~~ or wholesaler shall:

- (1) Be interested directly or indirectly in any way in any premises where distilled spirits or wine is sold at retail or in any business devoted wholly or partially to the sale of distilled spirits or wine at retail.
- (2) Make or cause to be made any loan to any person engaged in the manufacture or sale of distilled spirits or wine at wholesale or retail.
- (3) Make any gift or render any kind of service whatsoever, directly or indirectly, to any licensee under KRS 243.030 which in the sound judgment of the board may tend to influence the licensee to purchase the product of the distiller, rectifier, *winery*,~~winer~~ or wholesaler.
- (4) Enter into a contract with any retail licensee under KRS *Chapters 241 to 244*~~243.020 to 243.670~~ whereby the licensee agrees to confine his *or her* sales to distilled spirits or wine manufactured or sold by one (1) or more such distillers, rectifiers, *wineries*,~~winers~~ or wholesalers. Such a contract shall be void.

→Section 89. KRS 244.250 is amended to read as follows:

No distiller, rectifier, *winery*,~~winer~~ or wholesaler shall furnish or cause to be furnished to any licensee any exterior or interior sign, printed, painted, electric or otherwise, except as authorized by the *administrative* regulations of the board.

→Section 90. KRS 244.260 is amended to read as follows:

No wholesaler shall purchase, import, keep upon the licensed premises, or sell any distilled spirits or wine in any container except in the original sealed package containing quantities of not less than two hundred (200) milliliters each of distilled spirits or one hundred (100) milliliters of wine, and not exceeding 1.75 liters of distilled spirits or two hundred twenty (220) liters of wine, and fifty (50) milliliters of distilled spirits, as received from the distiller, rectifier, *winery*,~~winer~~, or wholesaler, as the case may be. The containers shall at all times have affixed to them all labels~~as may be~~ required by the administrative regulations of the board, together with all necessary federal revenue and state excise tax stamps.

→Section 91. KRS 244.290 is amended to read as follows:

- (1) (a) A premises that is licensed to sell distilled spirits or wine at retail shall ~~not~~ be permitted to remain open during the hours the polls are open on any **primary, or regular, local option, or special**~~primary~~ election day unless *it is located where the legislative body of a city of the first, second, third, or fourth class or an urban-county government, consolidated local government, charter county government, unified local government, or the fiscal court of a county containing a city of the first, second, third, or fourth class adopts an ordinance that prohibits the sale of distilled spirits and wine or limits the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries on any primary, or regular, local option, or special election day* ~~licensee provides a separate locked department in which all stock of distilled spirits and wine are kept~~ during the hours the polls are open.
- (b) *This subsection shall only apply in a territory where prohibition is no longer in effect in whole or in part.*
- (c) *Notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, the fiscal court of a county containing a city of the first, second, third, or fourth class shall not by ordinance or any other means:*
1. *Supersede, reverse, or modify any decision made pursuant to this subsection by the legislative body of a city of the first, second, third, or fourth class within that county; or*
 2. *Impose an action upon a city of the first, second, third, or fourth class within that county when that city has taken no formal action pursuant to this subsection.*
- (2) In any county containing a city of the first or second class in which the sale of distilled spirits and wine by the drink is permitted under KRS Chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS Chapter 242.
- (3) Except as provided in KRS 243.050, a premise for which there has been granted a license for the sale of distilled spirits or wine at retail by the drink or by the package shall not remain open for any purposes between midnight and 6 a.m. or at any time during the twenty-four (24) hours of a Sunday, unless:
- (a) The licensee provides a separate locked department in which all stocks of distilled spirits and wine are kept during those times; or
 - (b) The legislative body of a city of the first, second, third, or fourth class or an urban-county government, **consolidated local government, charter county government, unified local government**, or the fiscal court of a county containing a city of the first, second, third, or fourth class, has otherwise established the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries.
- (4) In any county containing a city of the first, second, or third class or any city located therein in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the legislative body of the city or county may, by ordinance, permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the designated closing hour of that locality at hotels, motels, or restaurants which:
- (a) Have dining facilities with a minimum seating capacity of one hundred (100) people at tables; and
 - (b) Receive less than fifty percent (50%) of their annual food and beverage income from the dining facilities from the sale of alcohol.
- (5) In any county containing a city of the first class or in any city located therein in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the distilled spirits director may issue a license to holders of a **quota**~~distilled spirits and wine~~ retail drink~~quota~~ license or a special private club license which permits the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the prevailing time for that locality.
- (6) Any city of the fourth class or county containing a city of the fourth class which has enacted a comprehensive, regulatory ordinance relating to the licensing and operation of hotels, motels, inns, or restaurants for the sale of alcoholic beverages by the drink under **Section 31 of this Act**~~KRS 242.185(1)~~, may also regulate and provide for the limited sale of distilled spirits and wine by the drink on Sundays if:
- (a) The **special**~~limited~~ Sunday **retail** drink licenses are issued only to those hotels, motels, inns, or restaurants authorized to sell alcoholic beverages by the drink under **Section 31 of this Act**~~KRS 242.185(3)~~; and

- (b) The *licensed retailers selling*~~holders of~~ distilled spirits and wine *by the*~~retail~~ drink~~licenses~~ have applied to the state director and meet all other legal requirements for obtaining a *special*~~limited~~ Sunday *retail*~~liquor by the~~ drink license.
- (7) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, in any county containing an urban-county government, *consolidated local government, charter county government, or unified local government* where Sunday sales of distilled spirits and wine by the drink have been previously approved, the legislative body of the urban-county government, *consolidated local government, charter county government, or unified local government* may by ordinance extend Sunday sales to any premises licensed to sell distilled spirits and wine by the drink located within the territorial boundaries of the urban-county government, *consolidated local government, charter county government, or unified local government* and may by ordinance establish the hours such distilled spirits and wine by the drink may be sold.

➔Section 92. KRS 244.295 is amended to read as follows:

- (1) In any county containing an urban-county government, a premises that has been granted a license for the sale of distilled spirits or wine at retail shall not be permitted to remain open for any purpose between midnight and 6 a.m., or at any time during the twenty-four (24) hours of a Sunday, ~~or during the hours the polls are open on any regular or primary election day~~ unless the licensee provides a separate department within his *or her* licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and all fixtures and apparatus connected with his *or her* business as a licensee, and the department is kept locked during the time mentioned above. The licensee shall be deemed to have complied with this section; except that the legislative body of an urban-county government in which traffic in distilled spirits and wine is permitted under KRS Chapter 242 shall have the exclusive right and power, by ordinance, to establish the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries. Provided, however, distilled spirits or wine may not be sold in any portion of a county containing an urban-county government during the twenty-four (24) hours between 6 a.m. Sunday and 6 a.m. Monday, except as provided in subsections (2) and (3) of this section, ~~and distilled spirits or wine may not be sold on any election day while the polls are still open~~; and provided, also, that all stocks of distilled spirits and wine ~~shall~~~~must~~ be kept locked during the hours in which the licensee is prohibited from selling *distilled spirits and wine*~~same~~.
- (2) In any county containing an urban-county government in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS 242.020 to 242.040 and 242.060 to 242.120. In any election, the form of the proposition shall be, "Are you in favor of the sale of distilled spirits and wine by the drink between the hours of one p.m. and midnight on Sunday in (name of county)?".
- (3) In any county containing an urban-county government in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the legislative body of ~~the~~~~such~~ urban-county government may by resolution or ordinance submit to the electorate a proposal to permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until a closing hour specified in the proposal by hotels, motels, convention centers, convention hotel complexes, restaurants, racetracks, and commercial airports which are licensed for the retail sale of distilled spirits and wine by the drink and which have dining facilities with a minimum seating capacity of one hundred (100) people at tables and which receive less than fifty percent (50%) of their annual food and beverage income from dining facilities by the sale of alcohol. The proposal to be submitted to the electorate shall be ~~so~~ framed *so* that any voter who wishes to vote in favor of the limited Sunday sales of distilled spirits and wine by the drink may signify his *or her* approval by voting "yes" and any voter who wishes to vote against the limited Sunday sales of distilled spirits and wine by the drink may do so by voting "no." The election shall be held on a date stipulated by the legislative body, and the cost of the election shall be borne by the urban-county government. The proposal shall be published pursuant to KRS Chapter 424 and shall also be advertised by written or printed handbills posted at not less than five (5) conspicuous places in each precinct of the county for two (2) weeks before the election. The general election laws, including penalties for violations, shall apply to the election, except where those laws are inconsistent with the provisions of this section. The proposal submitted to the electorate shall be effective immediately if a majority of those voting on the proposal ~~shall~~ vote "yes."
- (4) In any county containing an urban-county government in which the sale of distilled spirits and wine by the drink is permitted on Sunday as provided in subsections (2) and (3) of this section, *licensed retailers selling*~~holders of~~ distilled spirits and wine *by the*~~retail~~ drink~~licenses~~ may apply to the director of the Division of Distilled Spirits for a special Sunday ~~sale~~ retail drink license. Upon receipt of an application and payment of the prescribed fee, the director shall issue a license.

- (5) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, in any county containing an urban-county government where Sunday sales of distilled spirits and wine by the drink have been previously approved, the legislative body of the urban-county government may by ordinance extend Sunday sales to any premises licensed to sell distilled spirits and wine by the drink located within the territorial boundaries of the urban-county government and may by ordinance establish the hours such distilled spirits and wine by the drink may be sold.

➔Section 93. KRS 244.300 is amended to read as follows:

No retailer ~~selling~~ distilled spirits and wine **by the package or by the drink** shall sell, deliver, or give away, or cause, permit or procure to be sold, delivered, or given away any distilled spirits or wine on credit, except that a bona fide **licensed** private club, restaurant, or hotel ~~holding a license~~ may sell on reasonable credit to its members, customers, or registered guests. Sales by **any retailer selling** ~~retail drink or~~ distilled spirits **or** ~~and~~ wine **by the** ~~retail~~ package **or by the drink** ~~licensees~~ may be made by use of national or bank credit cards wherein the credit card company has agreed to payment to the licensee for such charges. However, nothing in this section shall be construed to authorize a licensee to issue **its** ~~his~~ own credit cards or extend a personal credit to patrons.

➔Section 94. KRS 244.440 is amended to read as follows:

- (1) Every resident and nonresident distiller, rectifier, **or winery** ~~blender, or vintner~~ and nonresident wholesaler who owns, **is the primary source of supply**, or has an exclusive interest in any particular brands, which are intended for sale or sold in this state, shall **be licensed in this state and shall** register on a form to be provided by the department, the names of the wholesalers in this state to whom distributing rights have been granted ~~for~~ one or more or all of the brands of distilled spirits or wine offered for sale or sold in this state.
- (2) No distiller, rectifier, **or winery** ~~blender, or vintner~~ shall offer to sell or sell, and no wholesaler shall offer to purchase or purchase, any brands which have not been registered as provided by this section.

➔Section 95. KRS 244.450 is amended to read as follows:

- (1) No **licensed** wholesaler shall import, buy, offer for sale, or sell any brands offered for sale or sold by any **out-of-state** ~~nonresident~~ distiller, rectifier, **winery, supplier** ~~blender, vintner~~, or wholesaler without:
- Having previously been granted distributing rights by **a licensed out-of-state** ~~the nonresident~~ distiller, rectifier, **winery, supplier** ~~blender, vintner~~, or wholesaler; and
 - Having previously **filed with the department a brand registration form signed by the licensed out-of-state distiller, rectifier, winery, supplier, or wholesaler** ~~applied for and received from the department an importer's permit~~.
- (2) No wholesaler shall **file or register a brand belonging to an out-of-state** ~~apply for or receive an importer's permit to import, buy, offer to sell, or sell any brands offered for sale or sold by any nonresident~~ distiller, rectifier, **winery, supplier** ~~blender, vintner~~, or wholesaler until the **out-of-state** ~~nonresident~~ distiller, rectifier, **winery, supplier** ~~blender, vintner~~, or wholesaler **becomes licensed and** has granted distributing rights to the wholesaler.

➔Section 96. KRS 244.480 is amended to read as follows:

- (1) Except as provided in subsection ~~(4)~~~~(3)~~ of this section, no brewer or distributor shall deliver any malt beverages on Sunday or between the hours of midnight and 6 a.m. on any other day.
- (2) Except as provided in subsection ~~(4)~~~~(3)~~ of this section, no retailer shall sell, give away, or deliver any malt beverages between midnight and 6 a.m. or at any time during the twenty-four (24) hours of a Sunday ~~or during the hours the polls are open on a primary or regular election day~~.
- (3) (a) **A retailer may sell malt beverages during the hours the polls are open on a primary, or regular, local option, or special election day unless the retailer is located where the legislative body of an urban-county government, consolidated local government, charter county government, unified local government, or a city of the first, second, third, or fourth class, or the fiscal court of a county containing an urban-county government or a city of the first, second, third, or fourth class, in which traffic in malt beverages is permitted by KRS Chapter 242 has adopted an ordinance that prohibits the sale of alcoholic beverages or limits the hours and times in which alcoholic beverages may be sold within its jurisdictional boundaries on any primary, or regular, local option, or special election day.**

- (b) *This subsection shall only apply in a territory where prohibition is no longer in effect in whole or in part.*
- (c) *Notwithstanding any other provisions of the Kentucky Revised Statutes to the contrary, the fiscal court of a county containing a city of the first, second, third, or fourth class shall not by ordinance or any other means:*
1. *Supersede, reverse, or modify any decision made pursuant to this subsection by the legislative body of a city of the first, second, third, or fourth class within that county; or*
 2. *Impose an action upon a city of the first, second, third, or fourth class within that county when that city has taken no formal action pursuant to this subsection.*
- (4) The legislative body of an urban-county government, *consolidated local government, charter county government, unified local government*, or a city of the first, second, third, or fourth class or of a county containing an urban-county government, *consolidated local government, charter county government, unified local government*, or a city of the first, second, third, or fourth class in which traffic in malt beverages is permitted by KRS Chapter 242, shall have the exclusive power to establish the times in which malt beverages may be sold within its jurisdictional boundaries, including Sunday *and any primary, or regular, local option, or special election day* sales if the hours so fixed~~;~~
- (a) ~~shall not prohibit the sale, gift, or delivery of any malt beverages between 6 a.m. and midnight during any day, except Sunday~~;~~ and~~
- (b) ~~Prohibit the sale of malt beverages on any primary or regular election day during the hours the polls are open~~;~~~~

➔Section 97. KRS 244.590 is amended to read as follows:

- (1) No brewer or distributor shall induce through any of the following means any ~~[a malt beverage]~~ retailer *selling malt beverages by the package or drink* to purchase any malt beverages from him *or her* to the exclusion in whole or in part of malt beverages sold or offered for sale by other persons, if the brewer or distributor engages in the practice of using such means, or any of them, to such an extent as substantially to restrain or prevent transactions in commerce in malt beverages:
- (a) By acquiring or holding, after the expiration of any existing license, any interest in any license with respect to the premises of the retailer;
 - (b) By acquiring any interest in real or personal property owned, occupied, or used by the retailer in the conduct of his *or her* business;
 - (c) By furnishing, giving, renting, lending, or selling to the retailer, any equipment, fixtures, signs, supplies, money, services, or other things of value, except as the director of the Division of Malt Beverages, having regard for the public health, the quantity and value of the articles involved, the prevention of monopoly, and the practice of deception, may by *administrative* regulation otherwise prescribe;
 - (d) By paying or crediting the retailer for any advertising, display, or distribution service subject to the exceptions which the director may by *administrative* regulation prescribe;
 - (e) By guaranteeing any loan or the repayment of any financial obligation of the retailer; or
 - (f) By requiring the retailer to take and dispose of a certain quota of any malt beverages.
- (2) Notwithstanding any provisions in KRS Chapter 244 and this section, a brewer or distributor may:
- (a) Give, rent, loan, or sell to any ~~[a malt beverage]~~ retailer *selling malt beverages by the package or drink* signs, posters, placards, designs, devices, decorations, or graphic displays bearing advertising matter and for use in windows or elsewhere in the interior of a retail malt beverage establishment; and
 - (b) Provide or furnish draught-line cleaning or coil-cleaning service to a *nonquota retail* malt beverage *package licensee* ~~[retailer]~~ either directly or indirectly with the consent of the distributor.

➔Section 98. KRS 244.600 is amended to read as follows:

No brewer shall induce through any of the following means, any ~~[a malt beverage]~~ retailer *selling malt beverages by the package or drink* to purchase any malt beverage products from him *or her* to the exclusion in whole or in part of

malt beverages sold or offered for sale by other persons, if the brewer engages in the practice of using such means, or any of them, to such an extent as substantially to restrain or prevent transactions in malt beverages:

- (1) By commercial bribery;~~[-or]~~
- (2) By offering or giving any bonus, premium, or compensation to any officer, employee, or representative of the retailer; or
- (3) By making or allowing any rebates or refunds to any officer, employee, or representative of the retailer.

➔Section 99. KRS 119.215 is amended to read as follows:

Any person who sells, loans, gives, or furnishes intoxicating liquor to any person in this state on the day of any regular or primary election, under circumstances not constituting a violation of KRS~~[-242.100,]~~ 244.290 or 244.480, shall be fined not less than twenty-five dollars (\$25) nor more than fifty dollars (\$50) for each offense.

➔SECTION 100. KRS 230.350 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 243 TO READ AS FOLLOWS:

Any person in wet territory licensed by the Kentucky Racing Commission under KRS 230.300 may be issued a license by the department and may hold a special temporary license as provided in Section 70 of this Act. When issued, the license shall be valid and effective only upon premises licensed by the racing commission and upon the dates and hours for which racing or intertrack wagering has been authorized by the racing commission. A temporary license may be issued for the period the racing or intertrack wagering has been authorized, even if the period exceeds thirty (30) days as provided in Section 70 of this Act.

➔SECTION 101. KRS 230.352 IS REPEALED AND REENACTED AS A NEW SECTION OF KRS CHAPTER 243 TO READ AS FOLLOWS:

In order to promote economic development and tourism, other provisions of the Kentucky Revised Statutes notwithstanding, the department may issue an NQI retail drink license under Section 45 of this Act to a horse racetrack that is licensed under KRS 230.300 and is located in a wet or moist city under Section 4 of this Act. The license issued under this section shall be in effect only for horse racetrack premises where live racing meets were held in 2006. Nothing in this section shall be construed as authorizing the issuance of any alcoholic beverage license on any part of the horse race track's premises that is located outside the city's limits.

➔Section 102. KRS 230.361 is amended to read as follows:

- (1) The racing commission shall promulgate administrative regulations governing and regulating mutuel wagering on horse races under what is known as the pari-mutuel system of wagering. The wagering shall be conducted only by a person licensed under this chapter to conduct a race meeting and only upon the licensed premises. The pari-mutuel system of wagering shall be operated only by a totalizator or other mechanical equipment approved by the racing commission. The racing commission shall not require any particular make of equipment.
- (2) The operation of a pari-mutuel system for betting where authorized by law shall not constitute grounds for the revocation or suspension of any license issued and held under *Sections 4 and 101 of this Act*~~[KRS 230.350]~~.
- (3) All reported but unclaimed pari-mutuel winning tickets held in this state by any person or association operating a pari-mutuel or similar system of betting at horse race meetings shall be presumed abandoned if not claimed by the person entitled to them within one (1) year from the time the ticket became payable.
- (4) The racing commission may issue a license to conduct pari-mutuel wagering on steeple chases or other racing over jumps; if all proceeds from the wagering, after expenses are deducted, is used for charitable purposes. If the dates requested for such a license have been granted to a track within a forty (40) mile radius of the race site, the racing commission shall not issue a license until it has received written approval from the affected track. Pari-mutuel wagering licensed and approved under this subsection shall be limited to four (4) days per year. All racing and wagering authorized by this subsection shall be conducted in accordance with applicable administrative regulations promulgated by the racing commission.

➔Section 103. KRS 413.241 is amended to read as follows:

- (1) The General Assembly finds and declares that the consumption of intoxicating beverages, rather than the serving, furnishing, or sale of such beverages, is the proximate cause of any injury, including death and property damage, inflicted by an intoxicated person upon himself or another person.

- (2) Any other law to the contrary notwithstanding, no person holding a permit under KRS *Chapters 241 to 244* [243.030, 243.040, 243.050], nor any agent, servant, or employee of the person, who sells or serves intoxicating beverages to a person over the age for the lawful purchase thereof, shall be liable to that person or to any other person or to the estate, successors, or survivors of either for any injury suffered off the premises including but not limited to wrongful death and property damage, because of the intoxication of the person to whom the intoxicating beverages were sold or served, unless a reasonable person under the same or similar circumstances should know that the person served is already intoxicated at the time of serving.
- (3) The intoxicated person shall be primarily liable with respect to injuries suffered by third persons.
- (4) The limitation of liability provided by this section shall not apply to any person who causes or contributes to the consumption of alcoholic beverages by force or by falsely representing that a beverage contains no alcohol.
- (5) This section shall not apply to civil actions filed prior to July 15, 1988.

➔Section 104. KRS 243.157 is amended to read as follows:

- (1) A microbrewery license shall authorize the licensee to perform the following functions:
- (a) Engage in the business of a brewer under the terms and conditions of KRS 243.150, provided that production of malt beverages at such microbrewery shall not exceed twenty-five thousand (25,000) barrels in one (1) year;
 - (b) Serve on the premises complimentary samples of malt beverages produced by such microbrewery in amounts not to exceed sixteen (16) ounces per patron, provided the microbrewery is located in wet territory;
 - (c) Sell malt beverages produced on the premises of the microbrewery to licensed distributors; *and*
 - (d) *Sell malt beverages produced on the premises of the microbrewery for on- and off-premises purposes in accordance with subsection (3)(b) and (c) of this section.*
- (2) A microbrewery license shall not be deemed to be incompatible with any other license except for a distributor's license under the provisions of KRS 243.180.
- (3) In accordance with the provisions of this section, a microbrewery license holder may: ~~also~~
- (a) Hold retail drink and package licenses both on and off the premises of the microbrewery. The holder of a microbrewery license is exempt from the provisions of KRS 244.570 and 244.590 as applied to any retail licenses held by the microbrewery license holder, and from any other sections which would restrict the co-ownership of the microbrewery license and any retail licenses described in this section;
 - (b) *Sell malt beverages produced on the premises of the microbrewery for on-premises purposes without having to transfer physical possession of those malt beverages to a licensed distributor provided:*
 1. *The microbrewery possesses a retail drink license for those premises;*
 2. *The microbrewery has a written contract with a licensed distributor authorizing the distributor to purchase and distribute the microbrewery's malt beverages to any other retailer; and*
 3. *The microbrewery provides to the distributor a monthly report of the quantity of malt beverages produced at the microbrewery and sold at retail at the microbrewery under the provisions of its retail drink license. The report required under this subparagraph shall:*
 - a. *Be provided to the distributor on or before the tenth day of the month next succeeding the month in which the malt beverages were produced and sold at the microbrewery; and*
 - b. *Be provided on a form promulgated by the board by administrative regulation. The information provided on the form shall be reported to the Department of Revenue at the time and in the manner required by that department in accordance with its powers under KRS 131.130(3) and any administrative regulation promulgated thereunder.*

Nothing in this subparagraph shall require a distributor to verify the accuracy of the information provided by the microbrewery in its report; and
 - (c) *Sell malt beverages produced on the premises of the microbrewery for off-premises purposes without having to transfer physical possession of those malt beverages to a licensed distributor provided that:*

1. *The microbrewery possesses a retail package license for those premises;*
2. *The microbrewery has a written contract with a licensed distributor authorizing the distributor to purchase and distribute the microbrewery's malt beverages to any other retailer; and*
3. *The microbrewery provides to the distributor a monthly report of the quantity of malt beverages produced at the microbrewery under the provisions of its retail package license. The report required under this subparagraph shall:*
 - a. *Be provided to the distributor on or before the tenth day of the month next succeeding the month in which the malt beverages were produced and sold at the microbrewery; and*
 - b. *Be provided on a form promulgated by the board by administrative regulation. The information provided on the form shall be reported to the Department of Revenue at the time and in the manner required by that department in accordance with its powers under KRS 131.130(3) and any administrative regulation promulgated thereunder.*

Nothing in this subparagraph shall require a distributor to verify the accuracy of the information provided by the microbrewery in its report; and

4. *The amount of malt beverages purchased by a customer during a visit to the microbrewery's premises does not exceed two hundred eighty-eight (288) ounces per customer per day.*
- (4) *The provisions of subsection (3)(b) and (c) of this section shall apply only to malt beverages that are:*
- (a) *Produced by the microbrewery at its licensed premises; and*
 - (b) *Offered for sale by the microbrewery at that same premises under the microbrewery's retail drink or package license.*

All other malt beverages produced by the microbrewery which are offered for retail sale shall be sold and physically transferred to a licensed distributor in compliance with all other relevant provisions of KRS Chapters 241, 242, 243, and 244, and a licensed microbrewery shall not otherwise affect sales of malt beverages directly to retail customers except as provided in subsection (3)(b) and (c) of this section.

- (5) (a) *A microbrewery selling malt beverages in accordance with subsection (3)(b) and (c) of this section shall collect and provide the licensed distributor all taxes due under KRS 243.884. The tax shall be computed at the rate of eleven percent (11%) of the wholesale value of the malt beverages sold by the microbrewery under the provisions of subsection (3)(b) and (c) of this section. For the purposes of this subsection "wholesale value" shall be determined in accordance with the contract required under subsection (3)(b)2. and (c)2. of this section, as applicable.*
- (b) *The licensed distributor shall be responsible for remitting these amounts to the Commonwealth as provided in KRS 243.884(1). In accordance with KRS 243.886, the licensed distributor shall be allowed to deduct one percent (1%) of the tax remitted under this subsection, provided the amount due is not delinquent at the time of payment. Nothing in this subsection shall require the licensed distributor to verify the amount of taxes collected and provided by the microbrewery to be the true and accurate amount which is due according to KRS 243.884; nor shall the distributor be responsible for remittance of taxes due in the event the microbrewery fails to collect and provide the amounts owed under the provisions of this subsection.*
- (c) *A microbrewery shall pay the excise tax on malt beverages in accordance with subsection (3) of Section 78 and with Section 79 of this Act and shall be entitled to the credit set forth in subsection (3)(b) of Section 78 of this Act.*

~~(6)(4)~~ A microbrewery shall not be located in dry territory.

~~(7)(5)~~ This section does not exempt the holder of a microbrewery license from the provisions of KRS Chapters 241, 242, 243, and 244, nor from any rules of the board as established by administrative regulations, nor from regulation by the board, except as expressly stated in this section. *The provisions of this section shall not be deemed inconsistent with the provisions of KRS 244.602.*

- (8) *Nothing in this section shall be construed to vitiate the policy of this Commonwealth, as set forth in KRS 244.602 and Section 86 of this Act, supporting an orderly three (3) tier system for the production and sale of malt beverages.*

➔Section 105. The following KRS sections are repealed:

- 242.080 Nomination of officers and issuance of certificates designating challengers, witnesses and guards.
- 242.100 Traffic in alcoholic beverage on election day local option election held prohibited.
- 242.130 Dry territory may allow sale of 3.2% beer.
- 242.140 Petition for referendum.
- 242.150 County judge/executive to order referendum.
- 242.160 Advertisement of referendum.
- 242.170 Question to be voted on -- Conduct of referendum -- Effect.
- 242.180 No referendum for three years after territory votes dry.
- 242.185 Ordinance permitting limited sale of alcoholic beverages by the drink -- Application -- Regulatory fee -- Local option election.
- 243.032 Restaurant wine license.
- 243.140 Business authorized by blender's license.
- 243.210 Business authorized by malt beverage transporter's license.
- 243.270 Business authorized by special private club license.
- 243.290 Business authorized by malt beverage special temporary license.
- 243.300 Business authorized by dining car and railroad licenses.
- 243.310 Business authorized by special nonbeverage alcohol vendor's license.
- 243.330 Business authorized by special nonindustrial alcohol license.
- 243.350 Business authorized by special storage or warehouse license.
- 243.400 Bond with application for brewer's, distiller's, rectifier's, bottling house, vintner's, or wholesaler's license.
- 243.410 Board may require satisfactory surety and bond -- Discharge of surety.
- 243.420 Recovery on bond.
- 244.330 One bar allowed for each license -- Service bars.

Signed by Governor April 4, 2013.

CHAPTER 122

(SB 151)

AN ACT relating to reciprocity for funeral directors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 316.140 is amended to read as follows:

- (1) *A person holding an embalmer's or a funeral director's license issued in another state or federal district may obtain a Kentucky embalmer's or a Kentucky funeral director's license if the board finds that the person, before or after obtaining a license in another state or federal district, has met the same or similar requirements for a license as set out in KRS 316.030 and pays to the board a fee equal to the license renewal fee.*
- (2) ~~A~~*Any* person holding an embalmer's or a funeral director's license issued in another state or federal district may obtain a courtesy card if the following conditions are met:
 - (a) The person is licensed as an embalmer or a funeral director in another state or federal district;

- (b) The other state or federal district issues courtesy cards or similar permits to embalmers or funeral directors licensed in Kentucky;
 - (c) The person completes an application for a courtesy card on a form provided by the board; and
 - (d) The person pays a fee that shall not exceed the amount of the fee an embalmer or a funeral director licensed under this chapter is required to pay for license renewal.
- (3)~~(2)~~ The board may issue a courtesy card to a licensed funeral director or licensed embalmer upon application and payment by the funeral director or embalmer of a fee prescribed by the board in administrative regulations promulgated under KRS Chapter 13A. The application shall be approved by the board, at its discretion. The requirement in KRS 316.030 that all Kentucky-licensed embalmers or funeral directors who practice in Kentucky shall practice from a funeral establishment that is licensed to operate under the provisions of this chapter shall not apply to the holder of a courtesy card. The board shall promulgate administrative regulations necessary to administer and enforce this section.
- (4)~~(3)~~ A courtesy card issued under this chapter shall expire on July 31 of each year.
- (5)~~(4)~~ The holder of a courtesy card issued under this chapter may undertake the following acts of funeral directing:
- (a) Remove and transport unembalmed and embalmed dead human bodies to and from Kentucky to the state or states where the courtesy card holder is licensed as a funeral director;
 - (b) Prepare and complete sections of death certificates and other disposition permits needed for the disposition of deceased human remains, without the assistance of, or being under the supervision of, an embalmer or funeral director licensed under this chapter; and
 - (c) Only a licensed funeral director who has been issued a courtesy card under this subsection may supervise and conduct funeral ceremonies in Kentucky without the assistance of a Kentucky funeral director.
- (6)~~(5)~~ A courtesy card holder pursuant to this chapter shall comply with all the laws of Kentucky when engaged in any acts of funeral directing in this state. The board may revoke or suspend the courtesy card, or subject the courtesy card holder to discipline in accordance with the laws applicable to funeral directors and embalmers licensed under this chapter. Any disciplinary measures taken by the board against a courtesy card holder shall be reported by the board to the state board or agency that issued the courtesy card holder's funeral director or embalmer's license or certification.
- (7)~~(6)~~ The holder of a courtesy card issued under this chapter shall not engage in the following acts:
- (a) Transfer the courtesy card to another individual;
 - (b) Own or operate a funeral home, crematory, or office that provides or offers to sell or arrange funeral or disposition services in Kentucky; and
 - (c) Except as provided in subsection (5)~~(4)~~ of this section, perform any of the acts related to the practice of funeral directing in Kentucky, including:
 1. Arranging for a funeral or disposition service with members of the public;
 2. Being employed by, or contracted to perform funeral or embalming services in Kentucky by, a funeral home licensed under this chapter;
 3. Advertising funeral or disposition services;
 4. Executing contracts for funeral or disposition services in Kentucky;
 5. Preparing or embalming deceased human remains in Kentucky; or
 6. Exhuming or disinterring human remains in Kentucky.

Signed by Governor April 4, 2013.

(SB 152)

AN ACT relating to the insurance code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 304.9-020 is amended to read as follows:

As used in this subtitle:

- (1) "Agent" means a person who sells, solicits, or negotiates insurance or annuity contracts;
- (2) "Appointment" means a notification filed with the insurance department that an insurer has established an agency relationship with a producer;
- (3) "Appointment renewal" means continuation of an insurer's existing appointment based on payment of the required fee without submission of an appointment form;
- (4) "Apprentice adjuster" means an individual who meets the qualification requirements to hold a license as an independent, staff, or public adjuster, except for the experience, education, and training requirements;
- (5) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, employer group, professional employer organization, or other legal entity;
- (6) "Catastrophe" means an event that results in a declaration of emergency by the Governor pursuant to KRS 39A.100 and:
 - (a) A large number of deaths or injuries;
 - (b) Extensive damage or destruction of facilities that provide and sustain human needs;
 - (c) An overwhelming demand on state and local response resources and mechanisms;
 - (d) A severe long-term effect on general economic activity; or
 - (e) A severe effect on state, local, and private sector capabilities to begin and sustain response activities;
- (7) "Crop insurance" means insurance providing protection against damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease, or other yield-reducing conditions or perils provided by the private insurance market or that is subsidized by the Federal Crop Insurance Corporation, including multi-peril crop insurance;
- (8) "Home state" means the District of Columbia and any state or territory of the United States in which a licensee maintains his or her principal place of residence or principal place of business and is licensed by that state;
- (9) "Independent adjuster" means a person who:
 - (a) Is an independent contractor, an employee of an independent contractor, or for tax purposes is treated as an independent contractor under Subtitle C of the Internal Revenue Code, 26 U.S.C. secs. 3101 et seq.;
 - (b) Is compensated by an insurer or self-insurer; and
 - (c) Investigates, negotiates, or settles property, casualty, or workers' compensation claims for insurers or self-insurers;
- (10) "Insurance producer" means an individual or business entity required to be licensed under the laws of Kentucky to sell, solicit, or negotiate insurance or annuity contracts. "Insurance producer" includes agent, managing general agent, surplus lines broker, reinsurance intermediary broker and manager, rental vehicle agent and rental vehicle agent managing employee, and consultant;
- (11) "Limited line credit insurance" includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the commissioner determines should be designated a form of limited line credit insurance;
- (12) "Limited line credit insurance agent" means an individual or business entity who sells, solicits, or negotiates one (1) or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy;

- (13) "Limited lines insurance" means the lines of insurance defined in subsections (7), (11), (21), (26), and (28) of this section and any other line of insurance that the commissioner identifies in accordance with KRS 304.9-230(1)(f) or recognizes for the purpose of complying with KRS 304.9-140(5);
- (14) "Negotiate" means the act of conferring directly with, or offering advice directly to, a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers. "Negotiate" does not include negotiating a claims settlement;
- (15) "Portable electronics" means electronic devices that are portable and the accessories and services related to the use of the device;
- (16) (a) "Portable electronics insurance" means insurance providing coverage for the repair or replacement of portable electronics for any one (1) or more of the following:
1. Loss;
 2. Theft;
 3. Inoperability due to mechanical failure;
 4. Malfunction;
 5. Damage; or
 6. Other similar causes of loss.
- (b) "Portable electronics insurance" does not mean:
1. A service contract governed by KRS 304.5-070;
 2. A policy of insurance covering a seller's or manufacturer's obligations under a warranty; or
 3. A homeowner's, renter's, private passenger automobile, commercial multi-peril, or similar policy;
- (17) "Portable electronics insurance supervising entity" means a business entity that is a licensed insurer or insurance agent that is appointed by an insurer to supervise the administration of a portable electronics insurance program;
- (18) "Portable electronics retailer" means a licensed business entity that offers and sells portable electronic devices and offers and disseminates portable electronics insurance on behalf and under the direction of a portable electronics insurance supervising entity;
- (19) "Public adjuster" means any person who, for compensation or anything of value:
- (a) Acts on behalf of an insured or aids an insured, solely in relation to first-party claims arising under insurance contracts that insure the real or personal property of the insured, in negotiating for, or effecting the settlement of, a claim for loss or damage covered by an insurance contract;
 - (b) Advertises for employment as a public adjuster of insurance claims, solicits business or represents himself, herself, or itself to the public as a public adjuster of first-party insurance claims for losses or damages arising out of policies of insurance that insure real or personal property; or
 - (c) Directly or indirectly solicits business, investigates or adjusts losses, advises an insured about first-party claims for losses or damages arising out of policies of insurance that insure real or personal property for another person, or engages in the business of adjusting losses or damages covered by an insurance policy for the insured;
- (20) "Rental vehicle agent" means a business entity with a rental vehicle agent managing employee that is licensed to sell, solicit, or negotiate insurance offered, sold, or solicited in connection with, and incidental to, the rental of rental ~~vehicles~~^{cars}, whether at the rental office or by preselection of coverage in master, corporate, or group agreements that:
- (a) Are nontransferable;
 - (b) Apply only to the rental ~~vehicle~~^{car} that is the subject of the rental agreement; and
 - (c) Are limited to the following kinds of insurance:

1. Personal accident insurance for renters and other rental ~~vehicle~~ occupants for accidental death or dismemberment and for medical expenses resulting from an accident that occurs with the rental ~~vehicle~~ during the rental period;
 2. Liability insurance that provides protection to the renters and other authorized drivers of a rental ~~vehicle~~ for liability arising from the operation or use of the rental ~~vehicle~~ during the rental period;
 3. Personal effects insurance that provides coverage to renters and other vehicle occupants for loss of or damage to personal effects in the rental vehicle during the rental period;
 4. Roadside assistance insurance;
 5. Emergency sickness protection insurance; or
 6. Any other coverage designated by the commissioner;
- (21) "Rental vehicle insurance" means insurance underwritten by an insurer authorized to transact business in Kentucky that is sold in connection with, and incidental to, a rental vehicle agreement;
- (22) "Rental vehicle agent managing employee" means an individual who:
- (a) Is a salaried full-time employee of a licensed rental vehicle agent business entity that holds a license under KRS 304.9-505; and
 - (b) Is responsible for the supervision of the other employees engaged in the placement of insurance;
- (23) "Sell" means to exchange a contract of insurance by any means, for money or other valuable consideration, on behalf of an insurer;
- (24) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular insurer;
- (25) "Staff adjuster" means an individual who is an employee of an insurer who investigates, negotiates, or settles property, casualty, or workers' compensation claims on behalf of his or her employer;
- (26) "Surety" means insurance or bond that covers obligation to pay the debts of, or answer for the default of another, including faithlessness in a position of public or private trust. Surety also includes surety insurance as defined in KRS 304.5-060;
- (27) "Terminate" means the cancellation of the relationship between an insurance producer and the insurer or the termination of an insurance producer's authority to transact insurance;
- (28) (a) "Travel insurance" means insurance coverage for personal risks incident to planned travel, including but not limited to:
1. Interruption or cancellation of a trip or event;
 2. Loss of baggage or personal effects;
 3. Damages to accommodations or rental vehicles; and
 4. Sickness, accident, disability, or death occurring during travel.
- (b) "Travel insurance" does not include insurance coverage that provides comprehensive medical protection for travelers with trips lasting six (6) months or longer, including those working overseas as an expatriate or military personnel being deployed;
- (29) "Uniform business entity application" means the current version of the uniform business entity application for resident and nonresident business entities; and
- (30) "Uniform individual application" means the current version of the uniform individual application for resident and nonresident individuals.

➔Section 2. KRS 304.9-425 is amended to read as follows:

- (1) No insurer, financial institution, agent, surplus lines broker, adjuster, administrator, reinsurance intermediary broker or manager, rental vehicle agent or managing employee, life settlement broker or provider, or consultant shall pay, directly or indirectly, any commission, brokerage, or other valuable consideration to any individual or business entity for services as an agent, surplus lines broker, adjuster, administrator, reinsurance intermediary broker or manager, rental vehicle agent or managing employee, life settlement broker or

provider, or consultant within this state, unless the individual or business entity held at the time the services were performed a valid license for that line of insurance as required by the laws of this state for the services.

- (2) No individual or business entity, other than an individual or business entity duly licensed by this state as an agent, surplus lines broker, adjuster, administrator, reinsurance intermediary broker or manager, rental vehicle agent or managing employee, life settlement broker or provider, or consultant at the time the services were performed, shall accept any commission, brokerage, or other valuable consideration for those services, ***unless the individual or business entity is licensed at the time the services were performed, if a license is required by law.***
- (3) This section shall not prevent payment or receipt of renewal or other deferred commissions to or by any individual or business entity entitled under this section.
- (4) Services as an agent, surplus lines broker, adjuster, administrator, reinsurance intermediary broker or manager, rental vehicle agent or managing employee, or consultant within this state shall not include a referral by an unlicensed person of a consumer to a licensed agent, surplus lines broker, adjuster, administrator, reinsurance intermediary broker or manager, rental vehicle agent or managing employee, or consultant that does not include a discussion of specific insurance policy terms and conditions.
- (5) An insurer, financial institution, agent, surplus lines broker, adjuster, administrator, reinsurance intermediary broker or manager, rental vehicle agent or managing employee, or consultant may pay any compensation, fee, or other consideration to an individual not licensed to sell insurance for the referral of a consumer to a licensed individual, only if the consideration is paid regardless of whether the insurance coverage is sold to the consumer.

➔Section 3. KRS 304.12-100 is amended to read as follows:

Nothing in KRS 304.12-080, 304.12-090, or 304.12-110 shall be construed as prohibiting:

- (1) Payment of lawfully earned commission or other lawful compensation to duly licensed insurance producers as defined in KRS 304.9-020(10) or compensation disclosed in a written disclosure agreement as described in KRS 304.11-042;
- (2) Distribution by a participating insurer to its participating policyholders of dividends, savings, or the unused or unabsorbed portion of premiums and premium deposits;
- (3) Furnishing of information, advice, programs, or services that are intended to reduce the future cost of insurance of the policyholder or the probability or severity of loss and assist in the efficient administration and management of the policyholder's insurance program or to assist the client in complying with any state or federal law. Such services shall include but are not limited to providing software to administer an insured's employee benefits or risk management programs, employee wellness programs, risk management services, loss control services, workers' compensation analysis forecasting, or any other service designed to assist in the efficient administration of a policyholder's insurance program;
- (4) Life insurers from paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, if such bonus or abatement is fair and equitable to all policyholders and for the best interests of the insurer and its policyholders;
- (5) In the case of insurance policies issued on the debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the savings in collection expense or making allowance to policyholders who make premium payments at less frequent intervals than required;
- (6) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of any policy year of insurance thereunder, which may be made retroactive only for such policy year;~~{or}~~
- (7) An insurer from waiving, in whole or in part, a policyholder's deductible for food spoilage for an insured risk located in a county declared to be a federal disaster area; ***or***
- (8) ***Payment of any compensation, fee, or other consideration to an individual not licensed to sell insurance if such individual sells, solicits, or negotiates rental vehicle insurance in accordance with KRS 304.9-507 or for the referral of a consumer to a licensed individual in accordance with KRS 304.9-425.***

➔Section 4. KRS 304.17A-005 is amended to read as follows:

As used in this subtitle, unless the context requires otherwise:

- (1) "Association" means an entity, other than an employer-organized association, that has been organized and is maintained in good faith for purposes other than that of obtaining insurance for its members and that has a constitution and bylaws;
- (2) "At the time of enrollment" means:
 - (a) At the time of application for an individual, an association that actively markets to individual members, and an employer-organized association that actively markets to individual members; and
 - (b) During the time of open enrollment or during an insured's initial or special enrollment periods for group health insurance;
- (3) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business by the insurer to the individual or small group, or employer as defined in KRS 304.17A-0954, with similar case characteristics for health benefit plans with the same or similar coverage;
- (4) "Basic health benefit plan" means any plan offered to an individual, a small group, or employer-organized association that limits coverage to physician, pharmacy, home health, preventive, emergency, and inpatient and outpatient hospital services in accordance with the requirements of this subtitle. If vision or eye services are offered, these services may be provided by an ophthalmologist or optometrist. Chiropractic benefits may be offered by providers licensed pursuant to KRS Chapter 312;
- (5) "Bona fide association" means an entity as defined in 42 U.S.C. sec. 300gg-91(d)(3);
- (6) "Church plan" means a church plan as defined in 29 U.S.C. sec. 1002(33);
- (7) "COBRA" means any of the following:
 - (a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;
 - (b) The Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than sec. 1169); or
 - (c) 42 U.S.C. sec. 300bb;
- (8) (a) "Creditable coverage" means, with respect to an individual, coverage of the individual under any of the following:
 1. A group health plan;
 2. Health insurance coverage;
 3. Part A or Part B of Title XVIII of the Social Security Act;
 4. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;
 5. Chapter 55 of Title 10, United States Code, including medical and dental care for members and certain former members of the uniformed services, and for their dependents; for purposes of Chapter 55 of Title 10, United States Code, "uniformed services" means the Armed Forces and the Commissioned Corps of the National Oceanic and Atmospheric Administration and of the Public Health Service;
 6. A medical care program of the Indian Health Service or of a tribal organization;
 7. A state health benefits risk pool;
 8. A health plan offered under Chapter 89 of Title 5, United States Code, such as the Federal Employees Health Benefit Program;
 9. A public health plan as established or maintained by a state, the United States government, a foreign country, or any political subdivision of a state, the United States government, or a foreign country that provides health coverage to individuals who are enrolled in the plan;
 10. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. sec. 2504(e)); or
 11. Title XXI of the Social Security Act, such as the State Children's Health Insurance Program.
- (b) This term does not include coverage consisting solely of coverage of excepted benefits as defined in subsection (14) of this section;

- (9) "Dependent" means any individual who is or may become eligible for coverage under the terms of an individual or group health benefit plan because of a relationship to a participant;
- (10) "Employee benefit plan" means an employee welfare benefit plan or an employee pension benefit plan or a plan which is both an employee welfare benefit plan and an employee pension benefit plan as defined by ERISA;
- (11) "Eligible individual" means an individual:
- (a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan. A period of creditable coverage under this paragraph shall not be counted if, after that period, there was a sixty-three (63) day period of time, excluding any waiting or affiliation period, during all of which the individual was not covered under any creditable coverage;
 - (b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. secs. 1395j et seq.), or a state plan under Title XIX of the Social Security Act (42 U.S.C. secs. 1396 et seq.) and does not have other health insurance coverage;
 - (c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in KRS 304.17A-240(2)(a), (b), and (c);
 - (d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and
 - (e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program;
- (12) "Employer-organized association" means any of the following:
- (a) Any entity that was qualified by the commissioner as an eligible association prior to April 10, 1998, and that has actively marketed a health insurance program to its members since September 8, 1996, and which is not insurer-controlled;
 - (b) Any entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and that is not insurer-controlled; or
 - (c) Any entity that is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee, the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation.

Except as provided in KRS 304.17A-200, 304.17A.210, and 304.17A-220, ***and except as otherwise provided by the definition of "large group" contained in subsection (30) of this section, an ~~no~~ employer-organized association shall not be treated as an association, small group, or large group under this subtitle, provided that an employer-organized association that is a bona fide association as defined in subsection (5) of this section shall be treated as a large group under this subtitle;***

- (13) "Employer-organized association health insurance plan" means any health insurance plan, policy, or contract issued to an employer-organized association, or to a trust established by one (1) or more employer-organized associations, or providing coverage solely for the employees, retired employees, directors and their spouses and dependents of the members of one (1) or more employer-organized associations;
- (14) "Excepted benefits" means benefits under one (1) or more, or any combination thereof, of the following:
- (a) Coverage only for accident, including accidental death and dismemberment, or disability income insurance, or any combination thereof;
 - (b) Coverage issued as a supplement to liability insurance;
 - (c) Liability insurance, including general liability insurance and automobile liability insurance;
 - (d) Workers' compensation or similar insurance;

- (e) Automobile medical payment insurance;
 - (f) Credit-only insurance;
 - (g) Coverage for on-site medical clinics;
 - (h) Other similar insurance coverage, specified in administrative regulations, under which benefits for medical care are secondary or incidental to other insurance benefits;
 - (i) Limited scope dental or vision benefits;
 - (j) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof;
 - (k) Such other similar, limited benefits as are specified in administrative regulations;
 - (l) Coverage only for a specified disease or illness;
 - (m) Hospital indemnity or other fixed indemnity insurance;
 - (n) Benefits offered as Medicare supplemental health insurance, as defined under section 1882(g)(1) of the Social Security Act;
 - (o) Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code;
 - (p) Coverage similar to that in paragraphs (n) and (o) of this subsection that is supplemental to coverage under a group health plan; and
 - (q) Health flexible spending arrangements;
- (15) "Governmental plan" means a governmental plan as defined in 29 U.S.C. sec. 1002(32);
- (16) "Group health plan" means a plan, including a self-insured plan, of or contributed to by an employer, including a self-employed person, or employee organization, to provide health care directly or otherwise to the employees, former employees, the employer, or others associated or formerly associated with the employer in a business relationship, or their families;
- (17) "Guaranteed acceptance program participating insurer" means an insurer that is required to or has agreed to offer health benefit plans in the individual market to guaranteed acceptance program qualified individuals under KRS 304.17A-400 to 304.17A-480;
- (18) "Guaranteed acceptance program plan" means a health benefit plan in the individual market issued by an insurer that provides health benefits to a guaranteed acceptance program qualified individual and is eligible for assessment and refunds under the guaranteed acceptance program under KRS 304.17A-400 to 304.17A-480;
- (19) "Guaranteed acceptance program" means the Kentucky Guaranteed Acceptance Program established and operated under KRS 304.17A-400 to 304.17A-480;
- (20) "Guaranteed acceptance program qualified individual" means an individual who, on or before December 31, 2000:
- (a) Is not an eligible individual;
 - (b) Is not eligible for or covered by other health benefit plan coverage or who is a spouse or a dependent of an individual who:
 1. Waived coverage under KRS 304.17A-210(2); or
 2. Did not elect family coverage that was available through the association or group market;
 - (c) Within the previous three (3) years has been diagnosed with or treated for a high-cost condition or has had benefits paid under a health benefit plan for a high-cost condition, or is a high risk individual as defined by the underwriting criteria applied by an insurer under the alternative underwriting mechanism established in KRS 304.17A-430(3);
 - (d) Has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of the policy; and
 - (e) Has not had his or her most recent coverage under any health benefit plan terminated or nonrenewed because of any of the following:

1. The individual failed to pay premiums or contributions in accordance with the terms of the plan or the insurer had not received timely premium payments;
 2. The individual performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage; or
 3. The individual engaged in intentional and abusive noncompliance with health benefit plan provisions;
- (21) "Guaranteed acceptance plan supporting insurer" means either an insurer, on or before December 31, 2000, that is not a guaranteed acceptance plan participating insurer or is a stop loss carrier, on or before December 31, 2000, provided that a guaranteed acceptance plan supporting insurer shall not include an employer-sponsored self-insured health benefit plan exempted by ERISA;
- (22) "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; provider sponsored integrated health delivery network; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, short-term coverage, student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or deductibles and provided under a separate policy, certificate, or contract, or coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code, or limited health service benefit plans;
- (23) "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist or home medical equipment and services provider as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:
- (a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;
 - (b) Chiropractors licensed under KRS Chapter 312;
 - (c) Dentists licensed under KRS Chapter 313;
 - (d) Optometrists licensed under KRS Chapter 320;
 - (e) Physician assistants regulated under KRS Chapter 311;
 - (f) Advanced practice registered nurses licensed under KRS Chapter 314; and
 - (g) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A;
- (24) (a) "High-cost condition," pursuant to the Kentucky Guaranteed Acceptance Program, means a covered condition in an individual policy as listed in paragraph (c) of this subsection or as added by the commissioner in accordance with KRS 304.17A-280, but only to the extent that the condition exceeds the numerical score or rating established pursuant to uniform underwriting standards prescribed by the commissioner under paragraph (b) of this subsection that account for the severity of the condition and the cost associated with treating that condition.
- (b) The commissioner by administrative regulation shall establish uniform underwriting standards and a score or rating above which a condition is considered to be high-cost by using:
1. Codes in the most recent version of the "International Classification of Diseases" that correspond to the medical conditions in paragraph (c) of this subsection and the costs for administering treatment for the conditions represented by those codes; and
 2. The most recent version of the questionnaire incorporated in a national underwriting guide generally accepted in the insurance industry as designated by the commissioner, the scoring scale for which shall be established by the commissioner.

- (c) The diagnosed medical conditions are: acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia, Hodgkin's disease, Huntington chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open heart surgery, Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, and Wilson's disease;
- (25) "Index rate" means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate;
- (26) "Individual market" means the market for the health insurance coverage offered to individuals other than in connection with a group health plan. The individual market includes an association plan that is not employer related, issued to individuals on an individually underwritten basis, other than an employer-organized association or a bona fide association, that has been organized and is maintained in good faith for purposes other than obtaining insurance for its members and that has a constitution and bylaws;
- (27) "Insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association, or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky;
- (28) "Insurer-controlled" means that the commissioner has found, in an administrative hearing called specifically for that purpose, that an insurer has or had a substantial involvement in the organization or day-to-day operation of the entity for the principal purpose of creating a device, arrangement, or scheme by which the insurer segments employer groups according to their actual or anticipated health status or actual or projected health insurance premiums;
- (29) "Kentucky Access" has the meaning provided in KRS 304.17B-001(17);
- (30) "Large group" means:
- (a) An employer with fifty-one (51) or more employees;~~or~~
 - (b) An affiliated group with fifty-one (51) or more eligible members; *or*
 - (c) ***An employer-organized association that is a bona fide association as defined in subsection (5) of this section;***
- (31) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services and that integrate the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards for furnishing a comprehensive set of health care services and financial incentives for covered persons using the participating providers and procedures provided for in the plan;
- (32) "Market segment" means the portion of the market covering one (1) of the following:
- (a) Individual;
 - (b) Small group;
 - (c) Large group; or
 - (d) Association;
- (33) "Participant" means any employee or former employee of an employer, or any member or former member of an employee organization, who is or may become eligible to receive a benefit of any type from an employee benefit plan which covers employees of the employer or members of the organization, or whose beneficiaries may be eligible to receive any benefit as established in Section 3(7) of ERISA;
- (34) "Preventive services" means medical services for the early detection of disease that are associated with substantial reduction in morbidity and mortality;
- (35) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals;
- (36) "Provider-sponsored integrated health delivery network" means any provider-sponsored integrated health delivery network created and qualified under KRS 304.17A-300 and KRS 304.17A-310;

- (37) "Purchaser" means an individual, organization, employer, association, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals;
- (38) "Rating period" means the calendar period for which premium rates are in effect. A rating period shall not be required to be a calendar year;
- (39) "Restricted provider network" means a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of the providers that have entered into a contractual arrangement with the insurer to provide health care services to covered individuals;
- (40) "Self-insured plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for covered services provided to its enrollees;
- (41) "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year;
- (42) "Small group" means:
- (a) A small employer with two (2) to fifty (50) employees; or
 - (b) An affiliated group or association with two (2) to fifty (50) eligible members;
- (43) "Standard benefit plan" means the plan identified in KRS 304.17A-250; and
- (44) "Telehealth" has the meaning provided in KRS 311.550.

Signed by Governor April 4, 2013.

CHAPTER 124

(HB 54)

AN ACT relating to government operations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 36 IS CREATED TO READ AS FOLLOWS:

Notwithstanding KRS 367.97501 to 367.97537 or any other statute relating to the disposition of remains, if a decedent died while in active military service, including state active duty with the National Guard, the person designated by the decedent on the United States Department of Defense Record of Emergency Data, DD Form 93, or its successor form, shall have the primary authority and responsibility for the final disposition of the decedent's remains.

➔Section 2. KRS 117.085 is amended to read as follows:

- (1) All requests for an application for an absentee ballot may be transmitted by telephone, facsimile machine, by mail, by electronic mail, or in person. Except as provided in paragraph (b) of this subsection, all applications for an absentee ballot shall be transmitted only by mail to the voter or in person at the option of the voter, except that the county clerk shall hand an application for an absentee ballot to a voter permitted to vote by absentee ballot who appears in person to request the application, or shall mail the application to a voter permitted to vote by absentee ballot who requests the application by telephone, facsimile machine, or mail. The absentee ballot application may be requested by the voter or the spouse, parents, or children of the voter, but shall be restricted to the use of the voter. Except for qualified voters who apply pursuant to the requirements of KRS 117.075 and 117.077, those who are incarcerated in jail but have yet to be convicted, military personnel confined to a military base on election day, and persons who qualify under paragraph (a)7. of this subsection, absentee ballots shall not be mailed to a voter's residential address located in the county in which the voter is registered. In the case of ballots returned by mail, the county clerk shall provide an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for an absentee ballot as provided in this section and who is properly registered as stated in his or her application.

- (a) The following voters may apply to cast their votes by mail-in absentee ballot if the application is received not later than the close of business hours seven (7) days before the election:
1. Voters permitted to vote by absentee ballot pursuant to KRS 117.075;
 2. Voters who are residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and citizens residing overseas;
 3. Voters who are students who temporarily reside outside the county of their residence;
 4. Voters who are incarcerated in jail who have been charged with a crime but have not been convicted of the crime;
 5. Voters who change their place of residence to a different state while the registration books are closed in the new state of residence before an election of electors for President and Vice President of the United States, who shall be permitted to cast an absentee ballot for electors for President and Vice President of the United States only;
 6. Voters who temporarily reside outside the state but who are still eligible to vote in this state; and
 7. Voters who are prevented from voting in person at the polls on election day and from casting an absentee ballot in person in the county clerk's office on all days absentee voting is conducted prior to election day because their employment location requires them to be absent from the county all hours and all days absentee voting is conducted in the county clerk's office.
- (b) Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and overseas citizens, may apply for an absentee ballot by means of the federal post-card application, which may be transmitted to the county clerk's office by mail or by facsimile machine. The application may be used to register, reregister, and to apply for an absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his or her seal to the application form upon receipt.
- (c) Absentee voting shall be conducted in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections during normal business hours for at least the twelve (12) working days before the election. A county board of elections may permit absentee voting to be conducted on a voting machine for a period longer than the twelve (12) working days before the election.
- (d) Any qualified voter in the county who is not permitted to vote by absentee ballot under paragraph (a) of this subsection who will be absent from the county on any election day may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (e) The following voters may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections:
1. Voters who are residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and citizens residing overseas, who will be absent from the county on any election day;
 2. Voters who are students who temporarily reside outside the county of their residence;
 3. Voters who have surgery scheduled that will require hospitalization on election day, and the spouse of the voter;
 4. Voters who temporarily reside outside the state but who are still eligible to vote in this state and who will be absent from the county on any election day;
 5. Voters who are residents of Kentucky who are members of the Armed Forces confined to a military base on election day and who learn of that confinement within seven (7) days or less of an election and are not eligible for a paper absentee ballot under this subsection; and
 6. A voter who is a pregnant woman in her last trimester of pregnancy at the time she wishes to vote under this paragraph. The application form for a voter under this subparagraph shall be

prescribed by the State Board of Elections, which shall contain the woman's sworn statement that she is in fact in her last trimester of pregnancy at the time she wishes to vote.

- (f) Voters who change their place of residence to a different state while the registration books are closed in the new state of residence before a presidential election shall be permitted to cast an absentee ballot for President and Vice President only, by making application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
 - (g) Any member of the county board of elections, any precinct election officer appointed to serve in a precinct other than that in which he or she is registered, any alternate precinct election officer, any deputy county clerk, any staff for the State Board of Elections, and any staff for the county board of elections may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. The application form for those persons shall be prescribed by the State Board of Elections and, in the case of application by precinct election officers, shall contain a verification of appointment signed by a member of the county board of elections. If an alternate precinct election officer or a precinct election officer appointed to serve in a precinct other than that in which he or she is registered receives his or her appointment while absentee voting is being conducted in the county, such officer may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. In case of such voters, the verification of appointment shall also contain the date of appointment. The applications shall be restricted to the use of the voter only.
 - (h) The members of the county board of elections or their designees who provide equal representation of both political parties may serve as precinct election officers, without compensation, for all absentee voting performed on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. If the members of the county board of elections or their designees serve as precinct election officers for the absentee voting, they shall perform the same duties and exercise the same authority as precinct election officers who serve on the day of an election. If the members of the county board of elections or their designees do not serve as precinct election officers for the absentee voting, the county clerk or deputy county clerks shall supervise the absentee voting.
 - (i) Any individual qualified to appoint challengers for the day of an election may also appoint challengers to observe all absentee voting performed at the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, and those challengers may exercise the same privileges as challengers appointed for observing voting on the day of an election at a regular polling place.
- (2) The clerk shall type the name of the voter permitted to vote by absentee ballot on the application form for that person's use and no other. The absentee ballot application form shall be in the form prescribed by the State Board of Elections, shall bear the seal of the county clerk, and shall contain the following information: name, residential address, precinct, party affiliation, statement of the reason the person cannot vote in person on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in the precinct, and the voter's mailing address for an absentee ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (5) shall be printed on the application.
 - (3) If the county clerk finds that the voter is properly registered as stated in his or her application and qualifies to receive an absentee ballot by mail, he or she shall mail to the voter an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting. The county clerk shall complete a postal form for a certificate of mailing for ballots mailed within the fifty (50) states, and it shall be stamped by the postal service when the ballots are mailed. An absentee ballot may be transmitted by facsimile machine to a resident of Kentucky who is a member of the Armed Forces, a dependent of a member of the Armed Forces, or a citizen residing overseas.
 - (4) Absentee ballots which are requested prior to the printing of the ballots shall be mailed by the county clerk to the voter within three (3) days of the receipt of the printed ballots; and absentee ballots which are requested subsequent to the receipt of the ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of the request.

- (5) The clerk shall cause ballots to be printed fifty (50) days prior to each primary or general election.
- (6) The outer envelope shall bear the words "Absentee Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address, precinct number, and signatures of two (2) witnesses if the voter signs the form with the use of a mark instead of the voter's signature. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number, signatures of two (2) witnesses if the voter signs the form with the use of a mark instead of the voter's signature and notice of penalty provided in KRS 117.995(5). The clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application and the postal form required by subsection (3) of this section for twenty-two (22) months after the election.
- (7) Any person who has received an absentee ballot by mail but who knows at least seven (7) days before the date of the election that he or she will be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his or her absentee ballot and vote in person. The voter shall return the absentee ballot to the county clerk's office no later than seven (7) days prior to the date of the election. Upon the return of the absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent absentee ballots, and the voter may vote in the precinct in which he or she is properly registered.
- (8) Any voter qualified for a mail-in absentee ballot who does not receive a requested mail-in ballot within a reasonable amount of time shall contact the county clerk, who shall reissue a second ballot. The county clerk shall keep a record of the absentee ballots issued and returned by mail, and the absentee voting that is performed on the voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections, to verify that only the first voted ballot to be returned by the voter is counted. Upon the return of any ballot after the first ballot is returned, the clerk shall mark on the outer envelope of the sealed ballot the words "Canceled because ballot reissued."
- (9) Any member of the military who has received an absentee ballot by mail but who knows that he or she will be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his or her absentee ballot and vote in person. The voter shall return the absentee ballot to the county clerk's office on or before election day. Upon the return of the absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent absentee ballots, provide the voter with written authorization to vote at the precinct, and the voter may vote in the precinct in which he or she is properly registered.
- (10) ***Notwithstanding the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884, the information contained in an application for an absentee ballot shall not be made public until after the close of business hours on the election day for which the application applies. This subsection shall not prohibit at any time the disclosure, upon request, of the total number of applications for absentee ballots that have been filed, or the disclosure to the Secretary of State or the State Board of Elections, if requested or if otherwise required by law, of any information in an application for an absentee ballot.***

➔Section 3. KRS 117.086 is amended to read as follows:

- (1) The voter returning his absentee ballot by mail shall mark his ballot, seal it in the inner envelope and then in the outer envelope, and mail it to the county clerk as shall be provided by this chapter. The voter shall sign the detachable flap and the outer envelope in order to validate the ballot. A person having power of attorney for the voter and who signs the detachable flap and outer envelope for the voter shall complete the voter assistance form as required by KRS 117.255. The signatures of two (2) witnesses are required if the voter signs the form with the use of a mark instead of the voter's signature. A resident of Kentucky who is a member of the Armed Forces, a dependent of a member of the Armed Forces, or a citizen residing overseas who has received an absentee ballot transmitted by facsimile machine shall transmit the voted ballot to the county clerk by mail only, conforming with ballot security requirements that may be promulgated by the state board by administrative regulation. In order to be counted, the ballots shall be received by the clerk by at least the time established by the election laws generally for the closing of the polls, which time shall not include the extra hour during which those voters may vote who were waiting in line to vote at the scheduled poll closing time.
- (2) Any voter who shall be absent from the county on election day, but who does not qualify to receive an absentee ballot by mail under the provisions of KRS 117.085, and all voters qualified to vote prior to the

election under the provisions of KRS 117.085, shall vote at the main office of the county clerk or other place designated by the county board of elections, and approved by the State Board of Elections, prior to the day of election. The clerk may provide for such voting by the voting equipment in general use in the county either at the precinct, the equipment as may be used to tabulate absentee ballots, or any other voting equipment approved by the State Board of Elections for use in Kentucky, except as follows:

- (a) Any voter qualifying to vote in the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, who receives assistance to vote shall complete the voter assistance form required by KRS 117.255.
 - (b) Any voter qualifying to vote in the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, whose qualifications are challenged by any clerk or deputy shall complete an "Oath of Voter" affidavit.
- (3) When the clerk uses general voting equipment as provided for in subsection (2) of this section, each voter casting his vote at the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, shall sign an "Absentee Ballot Signature Roster."
 - (4) The clerk shall designate a location within his office where the ballots shall be cast secretly. The county clerk, with the approval of the State Board of Elections, may establish locations other than his main office in which the voters may execute their ballots. Public notice of the locations shall be given pursuant to KRS Chapter 424 and similar notice by mail shall be given to the county chairmen of the two (2) political parties whose candidates polled the largest number of votes in the county at the last general election.
 - (5) The State Board of Elections shall promulgate administrative regulations to provide for casting ballots as provided in subsection (2) of this section.
 - (6) The clerk shall deposit all of the absentee ballots returned by mail in a locked ballot box immediately upon receipt without opening the outer envelope. The ballot box shall be locked with three (3) locks. The keys to the box shall be retained by the three (3) members of the central absentee ballot counting board, if one is appointed, or by the members of the board of elections, and the box shall remain locked until the ballots are counted. All voting equipment on which ballots are cast as permitted in subsection (2) of this section shall also remain locked and the keys shall be retained by the three (3) members of the central absentee ballot counting board, if one is appointed, or by the members of the board of elections, and the equipment shall remain locked until the ballots are counted.
 - (7) The clerk shall keep a list *for each election* of all persons who return their absentee ballots by mail or cast their ballots in the clerk's office or other place designated by the county board of elections~~[-]~~ and approved by the State Board of Elections, and *shall* send a copy of *each*~~that~~ list to the state board after *the* election day *for which the list applies. Notwithstanding the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884, each list of all persons who return their absentee ballots by mail or cast their ballots in the clerk's office or other designated and approved place shall not be made public until after the close of business hours on the election day for which the list applies.* The county clerk and the Secretary of State shall keep a record of the number of votes cast by absentee ballots returned by mail and on the voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, cast in any election as a part of the official returns of the election.
 - (8) The county board of elections shall report to the State Board of Elections within ten (10) days after any primary or general election as to the number of rejected absentee ballots and the reasons for rejected absentee ballots on a form prescribed by the State Board of Elections in administrative regulations promulgated under KRS Chapter 13A.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) *The student body president of each four (4) year public university, the two (2) student regents to be designated by the board of regents of the Kentucky Community and Technical College System, and one (1) student body president representing the members of the Association of Independent Kentucky Colleges and Universities shall serve on an advisory board to be known as the Board of Student Body Presidents. The student body president representing the independent colleges and universities shall be selected under a process established by the Association of Independent Kentucky Colleges and Universities.*
- (2) *The Board of Student Body Presidents shall advise the legislative and executive branches regarding postsecondary education issues and concerns of students.*

- (3) *At least once each year, the Board of Student Body Presidents shall meet with the Council on Postsecondary Education and the Advisory Conference of Presidents.*
- (4) *The Board of Student Body Presidents shall submit the names of three (3) nominees to the Governor for consideration in the appointment of a student member to the Council on Postsecondary Education pursuant to KRS 164.011.*

➔Section 5. KRS 164.011 is amended to read as follows:

- (1) There is hereby created and established a Council on Postsecondary Education in Kentucky as an agency, instrumentality, and political subdivision of the Commonwealth and a public body corporate and politic having all powers, duties, and responsibilities as are provided to it by law, appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The council shall be composed of the commissioner of education, a faculty member, a student member, and thirteen (13) citizen members appointed by the Governor. The citizen members shall be confirmed by the Senate and the House of Representatives under KRS 11.160, and the commissioner of education shall serve as a nonvoting ex officio member. Citizen council members shall be selected from a list of nominees provided to the Governor under the nominating process set forth in KRS 164.005. If the General Assembly is not in session at the time of the appointment, persons appointed shall serve prior to confirmation, but the Governor shall seek the consent of the General Assembly at the next regular session or at an intervening extraordinary session if the matter is included in the call of the General Assembly.
- (2) By no later than thirty (30) days after May 30, 1997, the Governor's Postsecondary Education Nominating Committee shall submit nominations to the Governor as set forth in KRS 164.005. On making appointments to the council, the Governor shall assure broad geographical and political representation; assure equal representation of the two (2) sexes, inasmuch as possible; assure no less than proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration; and assure that appointments reflect the minority racial composition of the Commonwealth. In filling vacancies to the council, the Governor shall act so as to provide, inasmuch as possible, equal representation of the two (2) sexes by appointing a member of the sex that is the lesser represented at the time of the appointment. If the remaining membership already has an equal number of males and females, the Governor may appoint a member of either sex. No more than two (2) members of the council shall hold an undergraduate degree from any one (1) Kentucky university, and no more than three (3) voting members of the council shall reside in any one (1) judicial district of the Kentucky Supreme Court as of the date of the appointment. However, change in residency after the date of appointment shall not affect the ability to serve.
- (3) One (1) member shall be a full-time faculty member employed at a state institution of postsecondary education. The faculty member shall be appointed to a four (4) year term by the Governor from a list of three (3) nominees selected and submitted by majority vote of the ten (10) faculty members who serve as faculty representatives of the boards of trustees and boards of regents of the nine (9) postsecondary education institutions.
- (4) One (1) member shall be enrolled as a full-time student at a state institution of postsecondary education and shall be selected annually in the following manner: not later than June 1 of each year the eight (8) student body presidents of the four (4) year state public institutions of higher education, ~~and~~ the two (2) student members to the Kentucky Community and Technical College System, **and one (1) student body president representing the members of the Association of Independent Kentucky Colleges and Universities** shall elect by majority vote three (3) nominees to submit to the Governor. From this list of nominees, the Governor shall appoint a student member.
- (5) In filling any vacancies, the Governor shall ensure the continuing representation upon the council of the broad constituencies as set forth in subsection (2) of this section. Vacancies on the council shall be filled for the unexpired term in accordance with the procedures established for the original appointments.
- (6) Each citizen member shall serve a term of six (6) years, except the initial appointments shall be as follows:
 - (a) Two (2) appointments shall expire December 31, 1997;
 - (b) Three (3) appointments shall expire December 31, 1998;
 - (c) Two (2) appointments shall expire December 31, 1999;
 - (d) Two (2) appointments shall expire December 31, 2000;
 - (e) Two (2) appointments shall expire December 31, 2001; and

- (f) Two (2) appointments shall expire December 31, 2002.
- (7) Any person, other than the chief state school officer, holding either an elective or appointive state office or who is a member of the governing board of any state university in Kentucky, shall be ineligible for membership or appointment on the council during his term.
- (8) The members of the council shall elect the chair and the vice chair of the council from among the council's membership, and the chair and vice chair shall serve at the pleasure of the council. The vice chair shall serve as chair in the absence of the chair.
- (9) The council shall meet at least quarterly and at other times upon the call of the chair or a majority of the council.
- (10) A quorum shall be a majority of the appointive membership of the council.
- (11) A quorum shall be required to organize and conduct the business of the council, except that an affirmative vote of eight (8) or more appointive members of the entire council shall be required to dismiss from employment the president of the council, and to adopt or amend the state strategic postsecondary education agenda.
- (12) New appointees to the council shall not serve more than two (2) consecutive terms. Appointees after May 30, 1997, who previously served on the Council of Higher Education may serve two (2) additional full consecutive terms.

➔Section 6. KRS 610.340 is amended to read as follows:

- (1) (a) Unless a specific provision of KRS Chapters 600 to 645 specifies otherwise, all juvenile court records of any nature generated pursuant to KRS Chapters 600 to 645 by any agency or instrumentality, public or private, shall be deemed to be confidential and shall not be disclosed except to the child, parent, victims, or other persons authorized to attend a juvenile court hearing pursuant to KRS 610.070 unless ordered by the court for good cause.
- (b) Juvenile court records which contain information pertaining to arrests, petitions, adjudications, and dispositions of a child may be disclosed to victims or other persons authorized to attend a juvenile court hearing pursuant to KRS 610.070.
- (c) Release of the child's treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court. Any records resulting from the child's prior abuse and neglect under Title IV-E or Title IV-B of the Federal Social Security Act shall not be disclosed to victims or other persons authorized to attend a juvenile court hearing pursuant to KRS 610.070.
- (d) Victim access under this subsection to juvenile court records shall include access to records of adjudications that occurred prior to July 15, 1998.
- (2) The provisions of this section shall not apply to public officers or employees engaged in the investigation of and in the prosecution of cases under KRS Chapters 600 to 645 or other portions of the Kentucky Revised Statutes. Any record obtained pursuant to this subsection shall be used for official use only, shall not be disclosed publicly, and shall be exempt from disclosure under the Open Records Act, KRS 61.870 to 61.884.
- (3) The provisions of this section shall not apply to any peace officer, as defined in KRS 446.010, who is engaged in the investigation or prosecution of cases under KRS Chapters 600 to 645 or other portions of the Kentucky Revised Statutes. Any record obtained pursuant to this subsection shall be used for official use only, shall not be disclosed publicly, and shall be exempt from disclosure under the Open Records Act, KRS 61.870 to 61.884.
- (4) The provisions of this section shall not apply to employees of the Department of Juvenile Justice or cabinet or its designees responsible for any services under KRS Chapters 600 to 645 or to attorneys for parties involved in actions relating to KRS Chapters 600 to 645 or other prosecutions authorized by the Kentucky Revised Statutes.
- (5) The provisions of this section shall not apply to records disclosed pursuant to KRS 610.320 or to public or private elementary and secondary school administrative, transportation, and counseling personnel, to any teacher or school employee with whom the student may come in contact, or to persons entitled to have juvenile records under KRS 610.345, if the possession and use of the records is in compliance with the provisions of KRS 610.345 and this section.

- (6) No person, including school personnel, shall disclose any confidential record or any information contained therein except as permitted by this section or other specific section of KRS Chapters 600 to 645, or except as permitted by specific order of the court.
- (7) No person, including school personnel, authorized to obtain records pursuant to KRS Chapters 600 to 645 shall obtain or attempt to obtain confidential records to which he is not entitled or for purposes for which he is not permitted to obtain them pursuant to KRS Chapters 600 to 645.
- (8) No person, including school personnel, not authorized to obtain records pursuant to KRS Chapters 600 to 645 shall obtain or attempt to obtain records which are made confidential pursuant to KRS Chapters 600 to 645 except upon proper motion to a court of competent jurisdiction.
- (9) No person shall destroy or attempt to destroy any record required to be kept pursuant to KRS Chapters 600 to 645 unless the destruction is permitted pursuant to KRS Chapters 600 to 645 and is authorized by the court upon proper motion and good cause for the destruction being shown.
- (10) As used in this section the term "KRS Chapters 600 to 645" includes any administrative regulations which are lawfully promulgated pursuant to KRS Chapters 600 to 645.
- (11) *Nothing in this section shall be construed to prohibit a crime victim from speaking publicly after the adjudication about his or her case on matters within his or her knowledge or on matters disclosed to the victim during any aspect of a juvenile court proceeding.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 600 IS CREATED TO READ AS FOLLOWS:

Pursuant to the authority granted to the Commonwealth under the Family Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g, when a statute within KRS Chapters 600 to 645 refers to the release of educational records, the purpose of the release shall be limited to providing the juvenile justice system with the ability to effectively serve, prior to adjudication, the needs of the student whose records are sought. Any educational records obtained pursuant to a statute within KRS Chapters 600 to 645 shall only be released to persons authorized by statute and shall not be released to any other person without the written consent of the parent of the child.

➔Section 8. 2013 HB 1/EN shall be amended as follows:

On page 2, by deleting lines 8 through 10 and inserting in lieu thereof the following:

- "(4) (a) *"Fee" means any user charge, rental fee, assessment, fee, schedule of rates, or tax, other than an ad valorem tax, imposed by a special purpose governmental entity.*
- (b) *"Fee" shall not include any fuel cost adjustment that is:*
1. *Made pursuant to an agreement with a power supplier;*
 2. *Amended by the power supplier based on the variable cost of fuel; and*
 3. *Passed through to the consumer by the utility pursuant to the agreement between the utility and the power supplier."*; and

On page 102, by deleting lines 18 and 19 and inserting in lieu thereof the following:

- "(1) *Beginning January 1, 2014, the provisions of this section shall apply to any fee or ad valorem tax levied by a special purpose governmental entity."*

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

Clark County, Kentucky, is named and designated as the birthplace of beer cheese.

➔Section 10. KRS 61.820 is amended to read as follows:

- (1) All meetings of all public agencies of this state, and any committees or subcommittees thereof, shall be held at specified times and places which are convenient to the public. *In considering locations for public meetings, the agency shall evaluate space requirements, seating capacity, and acoustics.* ~~and~~
- (2) All public agencies shall provide for a schedule of regular meetings by ordinance, order, resolution, bylaws, or by whatever other means may be required for the conduct of business of that public agency. The schedule of regular meetings shall be made available to the public.

➔Section 11. KRS 61.840 is amended to read as follows:

No condition other than those required for the maintenance of order shall apply to the attendance of any member of the public at any meeting of a public agency. No person may be required to identify himself in order to attend any such meeting. All agencies shall provide meeting room conditions, *including adequate space, seating, and acoustics*, which insofar as is feasible allow effective public observation of the public meetings. All agencies shall permit news media coverage, including but not limited to recording and broadcasting.

Signed by Governor April 5, 2013.

CHAPTER 125

(HB 295)

AN ACT relating to farm and construction retail agreement contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 365.800 is amended to read as follows:

As used in KRS 365.800 to 365.840, unless the context requires otherwise:

- (1) "Current net price on parts" means the price listed by a supplier in a price list or catalogue in effect at the time a retail agreement contract is terminated, less any applicable trade and cash discounts;
- (2) "Retailer" means any person, firm, or corporation, including heirs, personal representatives, guardians, trustees, assignees, or receivers of the person, firm, or corporation, engaged in the business of selling and retailing inventory, but shall not include retailers of petroleum or motor vehicle and related automotive care and replacement products;
- (3) "Inventory" means farm implements, tractors, farm machinery, consumer products, utility and industrial equipment, construction and excavating equipment, and any attachments, repair parts, or superseded parts for the equipment;
- (4) "Net cost" means the price a retailer paid for the inventory to a supplier, less all discounts allowed;
- (5) "Consumer products" means machines designed for or adapted and used for horticulture, floriculture, landscaping, grounds maintenance, or turf maintenance, including but not limited to lawnmowers, rototillers, trimmers, blowers, and other equipment used in both residential and commercial lawn, gardening, or turf maintenance, installation, or other applications;
- (6) "Superseded parts" means any part that will provide the same function as a currently available part as of the date of termination of a retail agreement contract; ~~and~~
- (7) "Supplier" means any wholesaler, manufacturer, or distributor of inventory, or any purchaser of assets or stock of any surviving corporation resulting from a merger or liquidation, or any receiver, assignee, or trustee of the original wholesaler, manufacturer, distributor, or corporation; **and**
- (8) ***"Terminate" or "termination" means cancel, fail to renew, or otherwise terminate a retail agreement contract.***

➔Section 2. KRS 365.831 is amended to read as follows:

- (1) No supplier, directly or through an officer, agent, or employee, shall terminate or substantially change the competitive circumstances of a retail agreement contract without good cause. As used in this subsection, "good cause" means the failure by a retailer to comply with requirements imposed upon the retailer by the retail agreement contract if the requirements are not different from those imposed on other retailers similarly situated in this state. In addition, good cause exists if:
 - (a) There has been a closeout or sale of a substantial part of the retailer's assets related to the equipment business, or there has been a commencement of a dissolution or liquidation of the retailer;
 - (b) The retailer has changed its principal place of business or added additional locations without prior approval of the supplier, which shall not be unreasonably withheld;

- (c) The retailer has substantially defaulted under a chattel mortgage or other security agreement between the retailer and the supplier, or there has been a revocation or discontinuance of a guarantee of a present or future obligation of the retailer to the supplier;
 - (d) The retailer has failed to operate in the normal course of business for seven (7) consecutive days or has otherwise abandoned the business;
 - (e) The retailer has pleaded guilty to or has been convicted of a felony affecting the relationship between the retailer and supplier; or
 - (f) The retailer transfers an interest in the dealership; or a person with a substantial interest in the ownership or control of the dealership, including an individual proprietor, partner, or major shareholder, withdraws from the dealership or dies; or a substantial reduction occurs in the interest of an individual proprietor, partner, or major shareholder in the dealership.
- (2) Good cause does not exist if the supplier consents to an action described in ~~this~~ subsection (1) of this section. ***Such consent exists if the retail agreement contract does not provide the supplier with a right to terminate or substantially change the competitive circumstances of the contract as a result of such action, or the supplier otherwise consents to such action.***
- ~~(3)~~(2) No supplier, directly or through an officer, agent, or employee, shall terminate or substantially change the competitive circumstances of a retail agreement contract based on high unemployment in the dealership market area, a labor dispute, the results of a natural disaster, including a sustained drought, or other circumstances beyond the retailer's control.
- ~~(4)~~(3) Except as provided in paragraphs (a) to (f) of subsection (1) of this section, a supplier shall provide a retailer with at least ninety (90) days written notice of termination of a retail agreement contract. The notice shall also contain a sixty (60) day written notice to cure the deficiency. The notice shall not be required if the termination is enacted for reasons included in paragraphs (a) to (f) of subsection (1) of this section. The notice shall state all reasons constituting good cause for action. In the case where termination is enacted due to market penetration, a reasonable period of time, not less than one (1) year, shall have existed where the supplier has worked with the retailer to gain the desired market share.

➔Section 3. KRS 365.834 is amended to read as follows:

The provisions of KRS 365.800 to 365.840 ***shall represent a public policy of this Commonwealth and*** shall not be waivable in any retail agreement contract, and any attempted waiver shall be void.

➔Section 4. KRS 365.840 is amended to read as follows:

The provisions of KRS 365.800 to 365.840 shall apply to all retail agreement contracts entered into before ***the effective date of this Act***~~April 21, 2004~~, which have no expiration date and are a continuing contract, and all other contracts entered into or renewed on or after ***the effective date of this Act***~~April 21, 2004~~. Any contract in force before ***the effective date of this Act***~~April 21, 2004~~, which by its own terms will terminate on a date after ***the effective date of this Act***~~April 21, 2004~~, shall be governed by the law as it existed prior to ***the effective date of this Act***~~April 21, 2004~~.

Signed by Governor April 5, 2013.

CHAPTER 126

(HB 354)

AN ACT relating to school safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) ***As used in this section:***

- (a) ***"Emergency management response plan" or "emergency plan" means a written document to prevent, mitigate, prepare for, respond to, and recover from emergencies; and***

- (b) *"First responders" means local fire, police, and emergency medical personnel.*
- (2) (a) *Each local board of education shall require the school council or, if none exists, the principal in each public school building in its jurisdiction to adopt an emergency plan to include procedures to be followed in case of fire, severe weather, or earthquake, or if a building lockdown as defined in KRS 158.164 is required.*
- (b) *Following adoption, the emergency plan, along with a diagram of the facility, shall be provided to appropriate first responders.*
- (c) *The emergency plan shall be reviewed following the end of each school year by the school council, the principal, and first responders and shall be revised as needed.*
- (d) *The principal shall discuss the emergency plan with all school staff prior to the first instructional day of each school year and shall document the time and date of any discussion.*
- (e) *The emergency plan and diagram of the facility shall be excluded from the application of KRS 61.870 to 61.884.*
- (3) *Each local board of education shall require the school council or, if none exists, the principal in each public school building to:*
- (a) *Establish primary and secondary evacuation routes for all rooms located within the school and shall post the routes in each room by any doorway used for evacuation;*
- (b) *Identify severe weather safe zones to be reviewed by the local fire marshal or fire chief and post the location of safe zones in each room of the school;*
- (c) *Develop practices for students to follow during an earthquake; and*
- (d) *Develop and adhere to practices to control the access to each school building. Practices may include but not be limited to:*
1. *Controlling outside access to exterior doors during the school day;*
 2. *Controlling the front entrance of the school electronically or with a greeter;*
 3. *Controlling access to individual classrooms. If a classroom is equipped with hardware that allows the door to be locked from the outside but opened from the inside, the door should remain locked during instructional time;*
 4. *Requiring all visitors to report to the front office of the building, provide valid identification, and state the purpose of the visit; and*
 5. *Providing a visitor's badge to be visibly displayed on a visitor's outer garment.*
- (4) *Each local board of education shall require the principal in each public school building in its jurisdiction to conduct, at a minimum, emergency response drills to include one (1) severe weather drill, one (1) earthquake drill and one (1) lockdown drill within the first thirty (30) instructional days of each school year and again during the month of January. Required fire drills shall be conducted according to administrative regulations promulgated by the Department of Housing, Buildings and Construction. Whenever possible, first responders shall be invited to observe emergency response drills.*
- (5) *No later than November 1 of each school year, a local district superintendent shall send verification to the Kentucky Department of Education that all schools within the district are in compliance with the requirements of this section.*

➔Section 2. KRS 158.163 is amended to read as follows:

The board of each local school district, and the governing body of each private and parochial school or school district, shall establish an earthquake and tornado emergency procedure system in every public or private school building in its jurisdiction having a capacity of fifty (50) or more students, or having more than one (1) classroom. The earthquake and tornado emergency procedure system shall include, but not be limited to, all of the following:

- (1) A school building disaster plan, ready for implementation at any time, for maintaining the safety and care of students and staffs. A drop procedure and safe area evacuation practice shall be held at least twice during each school year, *with the first practice for a drop procedure and a safe area evacuation being held within the first thirty (30) instructional days of each school year and one (1) practice being held during the month of January;*

- (2) A drop procedure. As used in this section, "drop procedure" means an activity by which each student and staff member takes cover under a table or desk, dropping to his or her knees, with the head protected by the arms, and the back to the windows;
- (3) A safe area. As used in this section, "safe area" means a designated space including an enclosed area with no windows, a basement or the lowest floor using the interior hallway or rooms, or taking shelter under sturdy furniture;
- (4) Protective measures to be taken before, during, and following an earthquake or tornado; and
- (5) A program to ensure that the students and the certificated and classified staff are aware of, and properly trained in, the earthquake and tornado emergency procedure system.

➔Section 3. KRS 158.164 is amended to read as follows:

- (1) As used in this section, "building lockdown" means to restrict the mobility of building occupants to maintain their safety and care.
- (2) Each local board of education shall require the school council or, if none exists, the principal in each public school building in its jurisdiction to establish procedures to perform a building lockdown, including protective measures to be taken during and immediately following the lockdown. ***Local law enforcement agencies shall be invited to assist in establishing lockdown procedures.***
- (3) Students~~[, parents, guardians]~~, certified staff, and classified staff shall be informed annually of building lockdown procedures.
- (4) A building lockdown practice shall be held at least ~~twice~~~~[once]~~ during each school year, ***with at least one (1) practice being held within the first thirty (30) instructional days of the school year and one (1) practice being held during the month of January.***

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

The Kentucky Department of Education shall require a local board of education to review Crime Prevention Through Environment Design principles, or CPTED principles, when constructing a new school building or when renovating an existing school building.

➔Section 5. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

The Kentucky Department of Education shall develop protocols for student records within the student information system which:

- (1) ***Provide notice to schools receiving the records of prior offenses described in KRS 610.345 committed by a student transferring to a new school or district; and***
- (2) ***Protect the privacy rights of students and parents guaranteed under the federal Family Educational Rights and Privacy Act.***

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

The chief of police in each city is encouraged to receive training on issues pertaining to school and student safety and shall be invited to meet annually with local superintendents to discuss emergency response plans and emergency response concerns.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

The sheriff in each county is encouraged to receive training on issues pertaining to school and student safety, and shall be invited to meet annually with local school superintendents to discuss emergency response plans and emergency response concerns.

➔Section 8. KRS 160.345 is amended to read as follows:

- (1) For the purpose of this section:
 - (a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school;
 - (b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal and is not a program or part of another school. The term "school" does not include district-operated schools that are:

1. Exclusively vocational-technical, special education, or preschool programs;
 2. Instructional programs operated in institutions or schools outside of the district; or
 3. Alternative schools designed to provide services to at-risk populations with unique needs;
- (c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state, with the exception of principals and assistant principals; and
- (d) "Parent" means:
1. A parent, stepparent, or foster parent of a student; or
 2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.
- (2) Each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:
- (a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. A parent representative on the council shall not be an employee or a relative of an employee of the school in which that parent serves, nor shall the parent representative be an employee or a relative of an employee in the district administrative offices. A parent representative shall not be a local board member or a board member's spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees;
- (b)
1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. A teacher elected to a school council shall not be involuntarily transferred during his or her term of office. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected. The principal shall be the chair of the school council.
 2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:
 - a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and
 - b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty;
- (c)
1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection;
- (d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy;
- (e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply;
- (f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals;
- (g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council. The school council shall consult with the school media librarian on the maintenance of the school library media center, including the purchase of instructional materials, information technology, and equipment;
- (h) Personnel decisions at the school level shall be as follows:
 1. From a list of qualified applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council, consistent with paragraph(i)~~II.~~~~10.~~ of this subsection. The superintendent shall provide additional applicants to the principal upon request when qualified applicants are available. The superintendent may forward to the school council the names of qualified applicants who have pending certification from the Education Professional Standards Board based on recent completion of preparation requirements, out-of-state preparation, or alternative routes to certification pursuant to KRS 161.028 and 161.048. Requests for transfer shall conform to any employer-employee bargained contract which is in effect;
 2. If the vacancy to be filled is the position of principal, the outgoing principal shall not serve on the council during the principal selection process. The superintendent or the superintendent's designee shall serve as the chair of the council for the purpose of the hiring process and shall have voting rights during the selection process. The council shall have access to the applications of all persons certified for the position. The principal shall be elected on a majority vote of the membership of the council. No principal who has been previously removed from a position in the district for cause may be considered for appointment as principal. The school council shall receive training in recruitment and interviewing techniques prior to carrying out the process of selecting a principal. The council shall select the trainer to deliver the training;
 3. Personnel decisions made at the school level under the authority of subparagraphs 1., 2., and 4. of this paragraph shall be binding on the superintendent who completes the hiring process;
 4. If the vacancy for the position of principal occurs in a school that has an index score that places it in the lowest one-third (1/3) of all schools below the assistance line and the school has completed a scholastic audit under KRS 158.6455 that includes findings of lack of effectiveness of the principal and school council, the superintendent shall appoint the principal after consulting with the school council;
 5. Applicants subsequently employed shall provide evidence that they are certified prior to assuming the duties of a position in accordance with KRS 161.020; and
 6. Notwithstanding other provisions of this paragraph, if the applicant is the spouse of the superintendent and the applicant meets the service requirements of KRS 160.380(2)(e), the applicant shall only be employed upon the recommendation of the principal and the approval of a majority vote of the school council;

- (i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:
 - 1. Determination of curriculum, including needs assessment, curriculum development and responsibilities under KRS 158.6453(7);
 - 2. Assignment of all instructional and noninstructional staff time;
 - 3. Assignment of students to classes and programs within the school;
 - 4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
 - 5. Determination of use of school space during the school day;
 - 6. Planning and resolution of issues regarding instructional practices;
 - 7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;
 - 8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;
 - 9. *Adoption of an emergency plan as required in Section 1 of this Act;*
 - 10. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal; and
 - 11. ~~10.~~ Procedures to assist the council with consultation in the selection of personnel by the principal, including but not limited to meetings, timelines, interviews, review of written applications, and review of references. Procedures shall address situations in which members of the council are not available for consultation; and
 - (j) Each school council shall annually review data as shown on state and local student assessments and program assessments required under KRS 158.6453. The data shall include but not be limited to information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, and participation in the federal free and reduced price lunch program. After completing the review of data, each school council, with the involvement of parents, faculty, and staff, shall develop and adopt a plan to ensure that each student makes progress toward meeting the goals set forth in KRS 158.645 and 158.6451(1)(b) by April 1 of each year and submit the plan to the superintendent and local board of education for review as described in KRS 160.340. The Kentucky Department of Education shall provide each school council the data needed to complete the review required by this paragraph no later than November 1 of each year. If a school does not have a council, the review shall be completed by the principal with the involvement of parents, faculty, and staff.
- (3) The policies adopted by the local board to implement school-based decision making shall also address the following:
- (a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;
 - (b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;
 - (c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;
 - (d) Professional development plans developed pursuant to KRS 156.095;
 - (e) Parent, citizen, and community participation including the relationship of the council with other groups;
 - (f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

- (g) Requirements for waiver of district policies;
 - (h) Requirements for record keeping by the school council; and
 - (i) A process for appealing a decision made by a school council.
- (4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.
- (5) All schools shall implement school-based decision making in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school meeting its goal as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.
- (6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making no later than one hundred twenty (120) days after the beginning of the service year for which they are elected to serve. Experienced members may participate in the training for new members to fulfill their training requirement. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education. By November 1 of each year, the principal through the local superintendent shall forward to the Department of Education the names and addresses of each council member and verify that the required training has been completed. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.
- (7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making, including but not limited to a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the commissioner of education and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.
- (8) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development in compliance with requirements specified in KRS 156.095, except as provided in KRS 158.649. School councils of small schools shall be encouraged to work with other school councils to maximize professional development opportunities.
- (9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.

- (b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.
 - (c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.
 - (d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.
- (10) Notwithstanding subsections (1) to (9) of this section, a school's right to establish or maintain a school-based decision making council and the powers, duties, and authority granted to a school council may be rescinded or the school council's role may be advisory if the commissioner of education or the Kentucky Board of Education takes action under KRS 160.346.
- (11) Each school council of a school containing grades K-5 or any combination thereof, or if there is no school council, the principal, shall develop and implement a wellness policy that includes moderate to vigorous physical activity each day and encourages healthy choices among students. The policy may permit physical activity to be considered part of the instructional day, not to exceed thirty (30) minutes per day, or one hundred and fifty (150) minutes per week. Each school council, or if there is no school council, the principal, shall adopt an assessment tool to determine each child's level of physical activity on an annual basis. The council or principal may utilize an existing assessment program. The Kentucky Department of Education shall make available a list of available resources to carry out the provisions of this subsection. The department shall report to the Legislative Research Commission no later than November 1 of each year on how the schools are providing physical activity under this subsection and on the types of physical activity being provided. The policy developed by the school council or principal shall comply with provisions required by federal law, state law, or local board policy.

Signed by Governor April 5, 2013.

CHAPTER 127

(HB 385)

AN ACT relating to personal representatives.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 395.605 is amended to read as follows:

- (1) Upon the sworn application of any fiduciary, that the fiduciary is the sole beneficiary of any estate, the court may dispense with the requirements of this chapter regarding periodic or final settlement of fiduciaries' accounts and may dispense with the requirements of a surety for the fiduciary and shall accept from the fiduciary an informal settlement. The informal settlement shall be made, under oath, by the fiduciary and shall state that the estate was solvent; that all legal claims and debts have been paid, or if not paid, the manner in which the claims and debts have been provided for; that, ***for final settlement***, the requirements of the inheritance, estate or similar death statutes have been met and the tax paid, if due and payable; that all court costs have been paid; the name of the attorney(s), if any, representing the fiduciary, and the amount of the attorney's fee, and that the beneficiary has received his or her share. An informal settlement may be filed at any time after expiration of six (6) months from the fiduciary's appointment. Upon the filing of the informal ***final*** settlement, the court may enter an order discharging the fiduciary, and his or her surety, if any. When a settlement is effected in the informal manner, no notice to any person shall be required nor shall the court be compelled to inquire into detailed items of income or disbursements.
- (2) If a proposed periodic or final settlement of a fiduciary is accompanied by a verified waiver executed by all of the beneficiaries of an estate, and none of the beneficiaries is under a disability, the court shall accept from the fiduciary an informal settlement which meets the requirements of subsection (1) of this section. Said beneficiaries may request an accounting of the assets of the estate prior to execution of the waiver. No verified

waiver need be obtained from a nonresiduary legatee who has received and receipted for his or her legacy, the canceled check or signed receipt attached to the proposed settlement being sufficient evidence of satisfaction. The court may require the fiduciary to execute bond with or without surety to insure the application of the estate assets to the debts of the decedent.

- (3) In the event that one (1) or more of the beneficiaries of the estate is under a disability, the court may allow the filing of an informal settlement if the court is of the opinion that the best interests of the person under the disability would be served.

➔Section 2. KRS 311.625 is amended to read as follows:

- (1) A living will directive made pursuant to KRS 311.623 shall be substantially in the following form, and may include other specific directions which are in accordance with accepted medical practice and not specifically prohibited by any other statute. If any other specific directions are held by a court of appropriate jurisdiction to be invalid, that invalidity shall not affect the directive.

"Living Will Directive

My wishes regarding life-prolonging treatment and artificially provided nutrition and hydration to be provided to me if I no longer have decisional capacity, have a terminal condition, or become permanently unconscious have been indicated by checking and initialing the appropriate lines below. By checking and initialing the appropriate lines, I specifically:

.... Designate as my health care surrogate(s) to make health care decisions for me in accordance with this directive when I no longer have decisional capacity. If refuses or is not able to act for me, I designate as my health care surrogate(s).

Any prior designation is revoked.

If I do not designate a surrogate, the following are my directions to my attending physician. If I have designated a surrogate, my surrogate shall comply with my wishes as indicated below:

.... Direct that treatment be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication or the performance of any medical treatment deemed necessary to alleviate pain.

.... DO NOT authorize that life-prolonging treatment be withheld or withdrawn.

.... Authorize the withholding or withdrawal of artificially provided food, water, or other artificially provided nourishment or fluids.

.... DO NOT authorize the withholding or withdrawal of artificially provided food, water, or other artificially provided nourishment or fluids.

.... Authorize my surrogate, designated above, to withhold or withdraw artificially provided nourishment or fluids, or other treatment if the surrogate determines that withholding or withdrawing is in my best interest; but I do not mandate that withholding or withdrawing.

.... Authorize the giving of all or any part of my body upon death for any purpose specified in KRS 311.1929.

.... DO NOT authorize the giving of all or any part of my body upon death.

In the absence of my ability to give directions regarding the use of life-prolonging treatment and artificially provided nutrition and hydration, it is my intention that this directive shall be honored by my attending physician, my family, and any surrogate designated pursuant to this directive as the final expression of my legal right to refuse medical or surgical treatment and I accept the consequences of the refusal.

If I have been diagnosed as pregnant and that diagnosis is known to my attending physician, this directive shall have no force or effect during the course of my pregnancy.

I understand the full import of this directive and I am emotionally and mentally competent to make this directive.

Signed this day of, 19...

Signature and address of the grantor.

In our joint presence, the grantor, who is of sound mind and eighteen (18) years of age, or older, voluntarily dated and signed this writing or directed it to be dated and signed for the grantor.

Signature and address of witness.

Signature and address of witness.

OR

STATE OF KENTUCKY)

.....County)

Before me, the undersigned authority, came the grantor who is of sound mind and eighteen (18) years of age, or older, and acknowledged that he voluntarily dated and signed this writing or directed it to be signed and dated as above.

Done this day of, 19...

Signature of Notary Public or other officer.

Date commission expires:.....

Execution of this document restricts withholding and withdrawing of some medical procedures. Consult Kentucky Revised Statutes or your attorney."

- (2) An advance directive shall be in writing, dated, and signed by the grantor, or at the grantor's direction, and either witnessed by two (2) or more adults in the presence of the grantor and in the presence of each other, or acknowledged before a notary public or other person authorized to administer oaths. None of the following shall be a witness to or serve as a notary public or other person authorized to administer oaths in regard to any advance directive made under this section:
- (a) A blood relative of the grantor;
 - (b) A beneficiary of the grantor under descent and distribution statutes of the Commonwealth;
 - (c) An employee of a health care facility in which the grantor is a patient, unless the employee serves as a notary public;
 - (d) An attending physician of the grantor; or
 - (e) Any person directly financially responsible for the grantor's health care.
- (3) A person designated as a surrogate pursuant to an advance directive may resign at any time by giving written notice to the grantor; to the immediate successor surrogate, if any; to the attending physician; and to any health care facility which is then waiting for the surrogate to make a health care decision.
- (4) An employee, owner, director, or officer of a health care facility where the grantor is a resident or patient shall not be designated or act as surrogate unless related to the grantor within the fourth degree of consanguinity or affinity or a member of the same religious *or fraternal* order.

Signed by Governor April 5, 2013.

CHAPTER 128

(HB 390)

AN ACT relating to urban-county government civil service.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 67A.240 is amended to read as follows:

- (1) The civil service commission shall prescribe and propound such said examinations as are proper, commensurate with vacant positions within the various departments of the urban-county government, according to classification prescribed by ordinance, shall set such times and places for holding examinations as may be proper and shall give public notice of vacancies by publication pursuant to KRS Chapter 424, and shall give actual notice to all eligible applicants of time and place of examinations. Provided, however, that the civil service commission may prescribe and propound job descriptions which reasonably establish minimum qualifications and standards for eligibility to take such examinations, but in no event shall such job

descriptions be a subterfuge for the evasion of the requirement that employment be determined on the basis of the principles set out herein.

- (2) The civil service commission shall, as soon after examinations as is practicable, certify to the appointing authority, a list of the applicants so examined, with the one having the highest average ranked first, and all others ranked numerically according to the result of the examination. After the compilation of such a list the commission may provide for further, substantially identical examinations, given on the same basis as the original examination, to supplement the list so compiled, and the results of each such subsequent examination shall be consolidated with the results of the prior examinations to provide an eligible list from among all of those who have taken such several examinations.
- (3) Every soldier, sailor, marine, members of the air forces, Army Nurses Corps and members of other branches of the military services and Red Cross nurses who served during a period of hostilities between the United States and another power in World War II, ~~or~~ the Korean or Vietnam conflict, ***the Persian Gulf War, Operation Iraqi Freedom, or Operation Enduring Freedom***, who has not been dishonorably discharged, and who is an applicant for any position of civil service of the urban-county government shall be entitled to five percent (5%) increase on his examination mark on entrance into civil service employment.
- (4) The civil service commission of urban-county governments shall maintain an eligible list of ***all individuals who, based on the outcome of examinations, are qualified***~~not less than five (5)~~ for each position to be filled.
- (5) The legislative body may designate certain civil service positions and prescribe that for such positions the examinations shall first be given exclusively to current employees; provided, however, that if no employee with a minimum of six (6) months' seniority achieves a passing grade, an examination shall be held in accordance with subsection (1) of this section, and shall be held, if less than five (5) such persons achieve a passing grade if the appointing authority so determines.
- (6) ***Upon the approval of the civil service commission, the appointing authority may promulgate administrative regulations to carry out the provisions of this section.***

➔Section 2. KRS 67A.270 is amended to read as follows:

- (1) The appointing authority shall make all civil service appointments, and the appointments shall be made only from the list of applicants certified by the civil service commission after examination. Appointments shall be made only by the selection of one (1) ***applicant from the list***~~of the five (5) holding the highest averages in the particular class and grade wherein the vacancy exists~~, except as provided in subsections (6) and (7) of this section.
- (2) Whenever it is imperative to fill a vacancy in classified civil service before the commission can certify a list off ~~as many as five (5)~~ persons eligible for appointment after competitive examination, the appointing authority shall nominate a competent person from the same class or next lower rank to the commission and if certified by the commission as qualified he may be appointed temporarily to fill the vacancy until an appointment can be made after competitive examination. Temporary appointments hereunder and under subsection (3) hereof shall continue only until a regular appointment can be made from the eligible list prepared by the commission.
- (3) In the circumstances described in subsection (2) hereof, when no one upon the eligible list, or by promotion from the same class or the next lower rank is available, competent and qualified, a temporary appointment may be made by the appointing authority without examination. In no case shall appointment hereunder or under subsection (2) hereof continue longer than ninety (90) days; and in no case shall successive appointments be made of the same person or other persons, to such vacancies, except hereunder or under subsection (2) of this section.
- (4) Where the service to be rendered by an appointee in the classified service is for a temporary period as provided herein, the appointing authority shall select for that temporary service a person on the list of those eligible for permanent appointment, if such person accepts such appointment. Successive temporary appointments to the same position shall not be made under this provision. The acceptance or refusal by an eligible applicant of a temporary appointment shall not affect his standing on the register for permanent employment, nor shall temporary service be counted as part of the probationary service in case of subsequent appointment to a permanent position.
- (5) Temporary appointments made by reason of these provisions, made necessary by reason of illness or disability of regular employees, may continue during such period of disability, but shall continue only during such period of disability and in no case longer than nine (9) months. No other temporary appointments other than

those provided for herein may be made, except that seasonal appointments may be made for periods not in excess of six (6) months.

- (6) Seniority, in the executive unit in which the vacancy occurs, and seniority in the level or rank of employment nearest the level or rank in which the vacancy occurs, shall each be given material consideration in filling such vacancies as shall occur in the classified civil service. Within six (6) months after June 21, 1974, or within six (6) months after the effective date of the urban-county government, there shall be established by comprehensive plan or ordinance (which function may be delegated to the commission, or to the executive unit charged with personnel matters subject to the control of the commission), a plan which in definite terms complies with this subsection. The said plan may be amended from time to time in accordance with the comprehensive plan or ordinance, but the effective date of any alteration therein shall be no sooner than 180 days after its adoption. Such plan shall provide for and describe in reasonable detail the circumstances, if any, under which the seniority described therein shall be the sole criteria for promotion, and the circumstances in which it will not, and in the latter case, shall provide a reasonably definite method by which applicants shall be entitled to an increase on their examination or evaluation scores by reason of such seniority, the relative importance of each such type of seniority in such determination, and the percentage increase in such scores for such seniority. The Circuit Court of the county in which the urban-county government is located shall have jurisdiction to determine the reasonableness of such plan and alterations thereto, and its compliance with the principles set out in this subsection.
- (7) In case of vacancy in the classified service, where peculiar and exceptional qualifications of a particular professional or educational character are required, upon satisfactory evidence that for reasons stated in writing by the appointing authority the commission may suspend the provisions requiring competitive examination under civil service.
- ~~(8) No person shall be certified by the commission from an eligible list more than five (5) times to the same appointing authority for the same or similar positions.~~
- ~~(9) The legislative body may by ordinance provide that any person who successfully completed his probationary period and subsequently ceased working in a position in the classified civil service, for reasons other than dismissal, may be restored to the office or position he formerly held if he so requests in writing to the appointing authority. Such person shall be eligible for reinstatement for a period of one (1) year following separation from the service and shall be reinstated only with the approval of the appointing authority.~~

Signed by Governor April 5, 2013.

CHAPTER 129

(HB 433)

AN ACT relating to bovine assessments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 247.650 is amended to read as follows:

- (1) With respect to any referendum conducted under the provisions of KRS 247.610 to 247.685, the Commissioner of Agriculture shall, before calling and announcing the referendum, fix, determine, and publicly announce at least thirty (30) days before the date determined for the referendum, the date, hours, and polling places for voting in the referendum, the effective date of the assessment, if adopted, the amount and basis of the assessment proposed to be collected, the means by which the assessment shall be collected if authorized by the producers, and the general purposes to which the amount collected shall be applied. No assessment levied under the provisions of any *single* referendum shall exceed one dollar (\$1) on each bovine animal marketed in the state by any producer included in the group to which the referendum was submitted or by any person subsequently becoming a new producer in the area in which the referendum was held.
- ~~(2) The first referendum held under the provisions of KRS 247.610 to 247.685 shall specify that the assessment, if approved, levied under that referendum shall be ten cents (\$0.10) on each bovine animal.~~
- ~~(3) No assessment shall be made on any bovine animal marketed in the state which sells for ten dollars (\$10) or less.~~

- (3) *Any assessment levied after the effective date of this Act shall be in addition to the federal assessment referenced in Section 2 of this Act.*

➔Section 2. KRS 247.652 is amended to read as follows:

- (1) Notwithstanding the provisions of KRS 247.610 to 247.685, in accordance with the Federal Beef Promotion and Research Act of 1985, each Kentucky producer of a bovine animal shall receive a credit of up to fifty cents (\$0.50) on each bovine animal on which a one dollar (\$1) assessment was made under the terms of the federal act. Each fifty cent (\$0.50) credit received by the producer shall be retained by the association certified under KRS 247.610 to 247.685 and shall be used by the association for the purposes provided in KRS 247.610 to 247.685.
- (2) ~~As long as the Kentucky producer of bovine animals receives the fifty cents (\$0.50) per head credit in accordance with subsection (1) of this section, the assessment provided for in KRS 247.650 shall not be effective.~~
- (3) In the event the one dollar (\$1) assessment provided by the federal act is terminated or suspended, *that*~~the~~ assessment on each Kentucky producer of a bovine animal shall continue *to be collected, shall be retained by the association certified under KRS 247.610 to 247.685, and shall be used*~~and shall not exceed one dollar (\$1)~~ for the purposes *provided in*~~of~~ KRS 247.610 to 247.685.

Signed by Governor April 5, 2013.

CHAPTER 130

(HCR 109)

A CONCURRENT RESOLUTION urging the United States Congress to persuade the United States Environmental Protection Agency (EPA) to withdraw its proposed Greenhouse Gas New Source Performance Standard for Electric Generating Units.

WHEREAS, the United States is the world's storehouse for coal, accounting for 27 percent of the world's supply with 261 billion recoverable short tons, while only consuming one billion short tons of coal per year; and

WHEREAS, coal is the leading fuel source for electricity generation in the United States, accounting for roughly 45 percent of all electricity generation over the past two years, and providing more than 550,000 jobs in the United States; and

WHEREAS, coal produced in the United States provides energy at the most affordable rates, with the United States' power sector over the last ten years paying on average three and one-half times less for coal than the next most affordable fossil fuel; and

WHEREAS, EPA's proposed rule limits options for future electricity generation and will lead to higher electricity rates, because renewable generation sources are too expensive, too intermittent, and too small in scale to serve as base load electricity, additional nuclear capacity is not currently being built, and natural gas has a history of extreme price volatility; and

WHEREAS, eliminating diversity in the United States' electricity mix and unnecessarily relying on a single fuel for the vast majority of new electricity generation will deplete domestic natural gas resources more quickly and significantly increase electricity prices; and

WHEREAS, EPA's proposed Greenhouse Gas New Performance Standard also puts the United States at a tremendous disadvantage in the global marketplace, as China and India, which use coal for 80 percent and 68 percent of their electricity generation respectively, continue to embrace coal and greatly increase new coal-fired generating capacity with 240 gigawatts and 70 gigawatts of coal-fired capacity to be constructed respectively in those countries over the next four years; and

WHEREAS, worldwide coal use is projected to increase by 50 percent through 2035, yet while other countries continue to rely on coal to provide low-cost electricity, EPA seeks to ban new coal-fired power plants, shrink America's use of this valuable natural resource, and move to higher-cost electricity; and

WHEREAS, no other upcoming administrative or legislative action compares to the grave threat posed by EPA's proposed Greenhouse Gas New Performance Standard for both the future production and consumption of coal in the United States, because EPA's proposed standard constitutes a de facto ban on new coal-fired generating units, and this action may embolden the EPA to introduce an even more egregious rule imposing similar standards on existing coal-fired units; and

WHEREAS, for all of its increased costs, EPA's proposed rule would provide no meaningful benefit, as EPA does not claim that the proposal would result in any reduction, and certainly no measurable reduction, in the risk of global climate change;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

➔Section 1. The General Assembly of Kentucky urges the Congress of the United States of America to persuade EPA to withdraw its proposed Greenhouse Gas New Source Performance Standard for Electric Generating Units. Additionally, members of Congress should work to persuade the President to direct EPA to set two separate standards for coal and natural gas rather than EPA's proposed combined standard. The new standard for coal should be based upon a new supercritical coal-fired power plant. Further, Congress should preemptively enact legislation allowing supercritical combustion technology to be compliant for new source performance standards, to prohibit EPA from extending new source performance standards to existing plants, and to amend new source review rules to allow generators to make technological improvements to existing coal plants.

➔Section 2. The Clerk of the House of Representatives shall send a copy of this Resolution and notification of its adoption to the President and Vice President of the United States, the Speaker of the United States House of Representatives, the Minority Leader of the United States House of Representatives, the Majority Leader of the United States Senate, the Minority Leader of the United States Senate, and each member of Kentucky's delegation to the United States Congress.

Signed by Governor April 5, 2013.

CHAPTER 131

(SB 1)

AN ACT relating to governmental operations and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. KRS CHAPTER 117A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

This chapter may be cited as the Uniform Military and Overseas Voters Act.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires:

(1) ***"Covered voter" means:***

- (a) ***A uniformed-service voter or an overseas voter who is registered to vote in the Commonwealth of Kentucky;***
- (b) ***A uniformed-service voter defined in subsection (9)(a) of this section whose voting residence is in the Commonwealth of Kentucky and who otherwise satisfies the Commonwealth of Kentucky's voter eligibility requirements;***
- (c) ***An overseas voter who, before leaving the United States, was last eligible to vote in the Commonwealth of Kentucky and, except for his or her absence from the state, otherwise satisfies the Commonwealth of Kentucky's voter eligibility requirements;***

- (d) *An overseas voter who, before leaving the United States, would have been last eligible to vote in the Commonwealth of Kentucky had the voter then been of voting age and, except for his or her absence from the state, otherwise satisfies the Commonwealth of Kentucky's voter eligibility requirements; or*
- (e) *An overseas voter who was born outside the United States, is not described in paragraph (c) or (d) of this subsection, and, except for his or her absence from the state, otherwise satisfies the Commonwealth of Kentucky's voter eligibility requirements, if:*
 - 1. *The last place where a parent or legal guardian of the voter was, or under this chapter would have been, eligible to vote before leaving the United States is within the Commonwealth of Kentucky; and*
 - 2. *The voter has not previously registered to vote in any other state;*
- (2) *"Dependent" means an individual recognized as a dependent by a uniformed service;*
- (3) *"Federal postcard application" means the application prescribed under Section 101(b)(2) of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. sec. 1973ff(b)(2);*
- (4) *"Federal write-in absentee ballot" means the ballot described in Section 103 of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. sec. 1973ff-2;*
- (5) *"Military-overseas ballot" means:*
 - (a) *A federal write-in absentee ballot;*
 - (b) *A ballot specifically prepared or distributed for use by a covered voter in accordance with this chapter; or*
 - (c) *A ballot cast by a covered voter in accordance with this chapter;*
- (6) *"Overseas voter" means a United States citizen who is outside the United States;*
- (7) *"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;*
- (8) *"Uniformed service" means:*
 - (a) *Active and reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States;*
 - (b) *The Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or*
 - (c) *The National Guard and state militia;*
- (9) *"Uniformed-service voter" means an individual who is qualified to vote and is:*
 - (a) *A member of the active or reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States who is on active duty;*
 - (b) *A member of the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States;*
 - (c) *A member on activated status of the National Guard or state militia; or*
 - (d) *A spouse or dependent of a member referred to in this subsection; and*
- (10) *"United States," used in the territorial sense, means the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

The voting procedures in this chapter apply to:

- (1) *A primary, regular, or special election for federal office;*
- (2) *A primary, regular, or special election for statewide or state legislative office or concerning a state ballot measure; and*

- (3) *A primary, regular, or special election for county or local government office, judicial office, Commonwealth's Attorney, property valuation administrator, school board members, and circuit clerk or concerning a local ballot measure for which in-person or mail-in absentee voting is available for other qualified voters.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

- (1) *The Secretary of State is the state official responsible for implementing this chapter and the Commonwealth of Kentucky's responsibilities under the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. sec. 1973ff et seq.*
- (2) *The Secretary of State may delegate to the State Board of Elections responsibilities under this chapter, including but not limited to the promulgation of administrative regulations necessary to implement this chapter.*
- (3) *The Secretary of State shall make available to covered voters information regarding voter registration procedures for covered voters and procedures for casting military-overseas ballots.*
- (4) *The Secretary of State shall establish an electronic transmission system through which a covered voter may apply for and receive voter registration materials, military-overseas ballots, and other information authorized under this chapter.*
- (5) *The Secretary of State shall:*
- (a) *Develop standardized absentee-voting materials, including privacy and transmission envelopes and their electronic equivalents, authentication materials, and voting instructions, to be used with the military-overseas ballot of a voter authorized to vote in any jurisdiction in the Commonwealth of Kentucky; and*
 - (b) *To the extent reasonably possible, coordinate with other states to carry out this section.*
- (6) *The Secretary of State shall prescribe the form and content of a declaration for use by a covered voter to swear or affirm specific representations pertaining to the voter's identity, eligibility to vote, status as a covered voter, and timely and proper completion of a military-overseas ballot. The declaration shall be based on the declaration prescribed to accompany a federal write-in absentee ballot, as modified to be consistent with this chapter. The Secretary of State shall ensure that a form for the execution of the declaration, including an indication of the date of execution of the declaration, is a prominent part of all balloting materials for which the declaration is required.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

- (1) *In registering to vote, an overseas voter who is eligible to vote in the Commonwealth of Kentucky shall use and shall be assigned to the voting precinct of the address of the last place of residence of the voter in the Commonwealth of Kentucky, or, in the case of a voter described by subsection (1)(e) of Section 2 of this Act, the address of the last place of residence in the Commonwealth of Kentucky of the parent or legal guardian of the voter. If that address is no longer a recognized residential address, the voter shall be assigned an address for voting purposes.*
- (2) *The Secretary of State shall promulgate administrative regulations covering the procedures for assigning an address for voting purposes for an overseas voter whose last place of residence is no longer a recognized residential address, provided that any regulations promulgated under this section shall specify that the overseas voter's assigned address shall be located in the same voting precinct as the overseas voter's last place of residence would have been located if the address were still a recognized residential address.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

- (1) *To apply to register to vote, in addition to any other approved method, a covered voter may use a federal postcard application, or the application's electronic equivalent.*
- (2) *A covered voter may use the declaration accompanying a federal write-in absentee ballot to apply to register to vote simultaneously with the submission of the federal write-in absentee ballot, if the declaration is received during the period registration is open under KRS 116.045. If the declaration is received after the last day of registration under KRS 116.045, it shall be treated as an application to register to vote for subsequent elections.*
- (3) *The Secretary of State shall ensure that the electronic transmission system described in subsection (4) of Section 4 of this Act is capable of accepting both a federal postcard application and any other approved*

electronic registration application sent to the appropriate election official. The voter may use the electronic transmission system or any other approved method to register to vote.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

- (1) *A covered voter who is registered to vote in the Commonwealth of Kentucky may apply for a military-overseas ballot using either the regular absentee ballot application in use in the voter's jurisdiction under KRS 117.085 or the federal postcard application or the application's electronic equivalent.*
- (2) *A covered voter who is not registered to vote in the Commonwealth of Kentucky may use a federal postcard application or the application's electronic equivalent to apply simultaneously to register to vote under Section 6 of this Act and for a military-overseas ballot.*
- (3) *The Secretary of State shall ensure that the electronic transmission system described in subsection (4) of Section 4 of this Act is capable of accepting the submission of both a federal postcard application and any other approved electronic military-overseas ballot application sent to the appropriate election official. The covered voter may use the electronic transmission system or any other approved method to apply for a military-overseas ballot.*
- (4) *A covered voter may use the declaration accompanying a federal write-in absentee ballot as an application for a military-overseas ballot simultaneously with the submission of the federal write-in absentee ballot, if the declaration is received by the appropriate election official by the close of business hours seven (7) days before the election.*
- (5) *To receive the benefits of this chapter, a covered voter shall inform the appropriate election official that the voter is a covered voter. Methods of informing the appropriate election official that a voter is a covered voter include:*
 - (a) *The use of a federal postcard application or federal write-in absentee ballot; and*
 - (b) *The use of the electronic transmission system established under subsection (4) of Section 4 of this Act.*
- (6) *This chapter does not preclude a covered voter from voting using the regular absentee ballot provisions under KRS 117.075 and 117.077 and Sections 22 and 23 of this Act.*

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

An application for a military-overseas ballot is timely if received by the close of business hours seven (7) days before the election. An application for a military-overseas ballot for a primary, whether or not timely, is effective as an application for a military-overseas ballot for the regular election.

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

- (1) *For an election described in Section 3 of this Act, not later than forty-five (45) days before the election or, if the forty-fifth day before the election is a weekend or holiday, not later than the business day preceding the forty-fifth day, the election official in each jurisdiction charged with distributing a ballot and balloting materials shall transmit a ballot and balloting materials to all covered voters who by that date submit a valid military-overseas ballot application.*
- (2) *A covered voter who requests that a ballot and balloting materials be sent to the voter by electronic transmission may choose facsimile transmission or the electronic transmission system established under subsection (4) of Section 4 of this Act. The election official in each jurisdiction charged with distributing a ballot and balloting materials shall transmit the ballot and balloting materials to the voter using the means of transmission chosen by the voter.*
- (3) *If a ballot application from a covered voter arrives fewer than forty-five (45) days before the election, the official charged with distributing a ballot and balloting materials shall transmit them to the voter not later than three (3) business days after the application arrives.*

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

To be valid, a military-overseas ballot shall be received by the appropriate local election official not later than the time established by the election laws generally for the closing of the polls, which time shall not include the extra hour during which those voters may vote who were waiting in line to vote at the scheduled poll closing time.

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

A covered voter may use a federal write-in absentee ballot to vote for all offices and ballot measures in an election described in Section 3 of this Act.

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

A valid military-overseas ballot cast in accordance with Section 10 of this Act shall be counted if it is received by the appropriate local election official not later than the time established by the election laws generally for the closing of the polls, which time shall not include the extra hour during which those voters may vote who were waiting in line to vote at the scheduled poll closing time, and the ballot may not be rejected on the basis that it has a late postmark, an unreadable postmark, or no postmark.

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

A military-overseas ballot shall include or be accompanied by a declaration signed by the voter that a material misstatement of fact in completing the ballot may be grounds for a conviction of perjury under the laws of the United States or the Commonwealth of Kentucky.

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

The Secretary of State, in coordination with local election officials, shall implement an electronic free-access system by which a covered voter may determine by telephone, electronic mail, or Internet whether:

- (1) *The voter's federal postcard application or other registration or military-overseas ballot application has been received and accepted; and*
- (2) *The voter's military-overseas ballot has been received.*

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

- (1) *The local election official shall request an electronic mail address from each covered voter who applies to register to vote after the effective date of this Act. An electronic mail address provided by any voter may not be made available to the public or any individual or organization other than an authorized agent of the local election official and is exempt from disclosure under the Kentucky Open Records Act, KRS 61.870 to 61.884. The address may be used only for official communication with the voter about the voting process, including transmitting military-overseas ballots and election materials if the voter has requested electronic transmission, and verifying the voter's mailing address and physical location. The request for an electronic mail address shall describe the purposes for which the electronic mail address may be used and include a statement that any other use or disclosure of the electronic mail address is prohibited.*
- (2) *A covered voter who provides an electronic mail address may request that the voter's application for a military-overseas ballot be considered a standing request for electronic delivery of a ballot for all elections held after the date of the application through the next regular election or December 31 of the year of the application, whichever is later, or another shorter period the voter specifies. An election official shall provide a military-overseas ballot to a voter who makes a standing request for each election to which the request is applicable. A covered voter who is entitled to receive a military-overseas ballot for a primary under this subsection is entitled to receive a military-overseas ballot for the regular election.*

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

- (1) *At least fifty (50) days before a regularly scheduled election and forty-five (45) days before an election not regularly scheduled, an official in each jurisdiction charged with printing and distributing ballots and balloting material shall make available a sample ballot that includes all of the ballot measures and federal, state, and local offices provided in Section 3 of this Act that will be on the ballot on the date of the election, and shall provide an electronic copy of the sample ballot to the Secretary of State.*
- (2) *The Secretary of State and any local election jurisdiction that maintains an Internet Web site shall make the sample ballot required under subsection (1) of this section available on their Web sites.*
- (3) *A covered voter may request a copy of a sample ballot from either the Secretary of State or the local election official, who shall send the sample ballot to the voter by facsimile, electronic mail, or regular mail, as the voter requests.*

➔SECTION 17. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

- (1) *If a voter's mistake or omission in the completion of a document under this chapter does not prevent determining whether a covered voter is eligible to vote, the mistake or omission does not invalidate the document. Failure to satisfy a nonsubstantive requirement, such as using paper or envelopes of a specified*

size or weight, does not invalidate a document submitted under this chapter. In a write-in ballot authorized by this chapter or in a vote for a write-in candidate on a regular ballot, if the intention of the voter is discernible under the Commonwealth of Kentucky's uniform definition of what constitutes a vote, an abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party shall be accepted as a valid vote.

- (2) *Notarization is not required for the execution of a document under this chapter. An authentication, other than the declaration specified in Section 13 of this Act or the declaration on the federal postcard application and federal write-in absentee ballot, is not required for execution of a document under this chapter. The declaration and any information in the declaration may be compared with information on file to ascertain the validity of the document.*

➔SECTION 18. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

A court may issue an injunction or grant other equitable relief appropriate to ensure substantial compliance with, or enforce, this chapter on application by:

- (1) *A covered voter alleging a grievance under this chapter; or*
 (2) *An election official in the Commonwealth of Kentucky.*

➔SECTION 19. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

➔SECTION 20. A NEW SECTION OF KRS CHAPTER 117A IS CREATED TO READ AS FOLLOWS:

To the extent permitted by Section 102 of the Electronic Signatures in Global and National Commerce Act, Public Law 106-229, 15 U.S.C. sec. 7002, this chapter may modify or supersede provisions of that act.

➔Section 21. KRS 117.079 is amended to read as follows:

The provisions of KRS 117.085, ~~and~~ 117.086, **and Chapter 117A** notwithstanding, the State Board of Elections shall, as circumstances warrant and with the concurrence of the Attorney General, promulgate necessary administrative regulations to preserve the absentee voting rights of residents of Kentucky who are **covered voters as defined in Section 2 of this Act** ~~members of the Armed Forces, dependents of members of the Armed Forces, and citizens residing overseas and other residents of Kentucky residing outside the United States~~.

➔Section 22. KRS 117.085 is amended to read as follows:

- (1) All requests for an application for an absentee ballot may be transmitted by telephone, facsimile machine, by mail, by electronic mail, or in person. Except as provided in paragraph (b) of this subsection, all applications for an absentee ballot shall be transmitted only by mail to the voter or in person at the option of the voter, except that the county clerk shall hand an application for an absentee ballot to a voter permitted to vote by absentee ballot who appears in person to request the application, or shall mail the application to a voter permitted to vote by absentee ballot who requests the application by telephone, facsimile machine, or mail. The absentee ballot application may be requested by the voter or the spouse, parents, or children of the voter, but shall be restricted to the use of the voter. Except for qualified voters who apply pursuant to the requirements of KRS 117.075 and 117.077, those who are incarcerated in jail but have yet to be convicted, **those who are uniformed-service voters as defined in Section 2 of this Act that are** ~~military personnel~~ confined to a military base on election day, and persons who qualify under paragraph (a)7. of this subsection, absentee ballots shall not be mailed to a voter's residential address located in the county in which the voter is registered. In the case of ballots returned by mail, the county clerk shall provide an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for an absentee ballot as provided in this section and who is properly registered as stated in his or her application.
- (a) The following voters may apply to cast their votes by mail-in absentee ballot if the application is received not later than the close of business hours seven (7) days before the election:
1. Voters permitted to vote by absentee ballot pursuant to KRS 117.075;
 2. Voters who are residents of Kentucky who are **covered voters as defined in Section 2 of this Act** ~~members of the Armed Forces, dependents of members of the Armed Forces, and citizens residing overseas~~;

3. Voters who are students who temporarily reside outside the county of their residence;
 4. Voters who are incarcerated in jail who have been charged with a crime but have not been convicted of the crime;
 5. Voters who change their place of residence to a different state while the registration books are closed in the new state of residence before an election of electors for President and Vice President of the United States, who shall be permitted to cast an absentee ballot for electors for President and Vice President of the United States only;
 6. Voters who temporarily reside outside the state but who are still eligible to vote in this state; and
 7. Voters who are prevented from voting in person at the polls on election day and from casting an absentee ballot in person in the county clerk's office on all days absentee voting is conducted prior to election day because their employment location requires them to be absent from the county all hours and all days absentee voting is conducted in the county clerk's office.
- (b) Residents of Kentucky who are *covered voters as defined in Section 2 of this Act*~~{members of the Armed Forces, dependents of members of the Armed Forces, and overseas citizens,}~~ may apply for an absentee ballot by means of the federal post-card application, which may be transmitted to the county clerk's office by mail, ~~for~~ by facsimile machine, **or by means of the electronic transmission system established under subsection (4) of Section 4 of this Act**. The application may be used to register, reregister, and to apply for an absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his or her seal to the application form upon receipt.
- (c) Absentee voting shall be conducted in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections during normal business hours for at least the twelve (12) working days before the election. A county board of elections may permit absentee voting to be conducted on a voting machine for a period longer than the twelve (12) working days before the election.
- (d) Any qualified voter in the county who is not permitted to vote by absentee ballot under paragraph (a) of this subsection who will be absent from the county on any election day may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (e) The following voters may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections:
1. Voters who are residents of Kentucky who are *covered voters as defined in Section 2 of this Act*~~{members of the Armed Forces, dependents of members of the Armed Forces, and citizens residing overseas,}~~ who will be absent from the county on any election day;
 2. Voters who are students who temporarily reside outside the county of their residence;
 3. Voters who have surgery scheduled that will require hospitalization on election day, and the spouse of the voter;
 4. Voters who temporarily reside outside the state but who are still eligible to vote in this state and who will be absent from the county on any election day;
 5. Voters who are residents of Kentucky who are *uniformed-service voters as defined in Section 2 of this Act*~~{members of the Armed Forces,}~~ confined to a military base on election day and who learn of that confinement within seven (7) days or less of an election and are not eligible for a paper absentee ballot under this subsection; and
 6. A voter who is a pregnant woman in her last trimester of pregnancy at the time she wishes to vote under this paragraph. The application form for a voter under this subparagraph shall be prescribed by the State Board of Elections, which shall contain the woman's sworn statement that she is in fact in her last trimester of pregnancy at the time she wishes to vote.

- (f) Voters who change their place of residence to a different state while the registration books are closed in the new state of residence before a presidential election shall be permitted to cast an absentee ballot for President and Vice President only, by making application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
 - (g) Any member of the county board of elections, any precinct election officer appointed to serve in a precinct other than that in which he or she is registered, any alternate precinct election officer, any deputy county clerk, any staff for the State Board of Elections, and any staff for the county board of elections may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. The application form for those persons shall be prescribed by the State Board of Elections and, in the case of application by precinct election officers, shall contain a verification of appointment signed by a member of the county board of elections. If an alternate precinct election officer or a precinct election officer appointed to serve in a precinct other than that in which he or she is registered receives his or her appointment while absentee voting is being conducted in the county, such officer may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. In case of such voters, the verification of appointment shall also contain the date of appointment. The applications shall be restricted to the use of the voter only.
 - (h) The members of the county board of elections or their designees who provide equal representation of both political parties may serve as precinct election officers, without compensation, for all absentee voting performed on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. If the members of the county board of elections or their designees serve as precinct election officers for the absentee voting, they shall perform the same duties and exercise the same authority as precinct election officers who serve on the day of an election. If the members of the county board of elections or their designees do not serve as precinct election officers for the absentee voting, the county clerk or deputy county clerks shall supervise the absentee voting.
 - (i) Any individual qualified to appoint challengers for the day of an election may also appoint challengers to observe all absentee voting performed at the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, and those challengers may exercise the same privileges as challengers appointed for observing voting on the day of an election at a regular polling place.
- (2) The clerk shall type the name of the voter permitted to vote by absentee ballot on the application form for that person's use and no other. The absentee ballot application form shall be in the form prescribed by the State Board of Elections, shall bear the seal of the county clerk, and shall contain the following information: name, residential address, precinct, party affiliation, statement of the reason the person cannot vote in person on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in the precinct, and the voter's mailing address for an absentee ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (5) shall be printed on the application.
- (3) If the county clerk finds that the voter is properly registered as stated in his or her application and qualifies to receive an absentee ballot by mail, he or she shall mail to the voter an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting. The county clerk shall complete a postal form for a certificate of mailing for ballots mailed within the fifty (50) states, and it shall be stamped by the postal service when the ballots are mailed. An absentee ballot may be transmitted by facsimile machine *or by the electronic transmission system established under subsection (4) of Section 4 of this Act to a covered voter as defined in Section 2 of this Act. The covered voter shall be notified of the options for transmittal of the absentee ballot, and the absentee ballot shall be transmitted by the method chosen for receipt by the* resident of Kentucky who is a *covered voter* ~~[member of the Armed Forces, a dependent of a member of the Armed Forces, or a citizen residing overseas].~~
- (4) Absentee ballots which are requested prior to the printing of the ballots shall be mailed *or otherwise transmitted as provided in subsection (3) of this section* by the county clerk to the voter within three (3) days of the receipt of the printed ballots; and absentee ballots which are requested subsequent to the receipt of the

ballots by the county clerk shall be mailed *or otherwise transmitted as provided in subsection (3) of this section* to the voter within three (3) days of the receipt of the request.

- (5) The clerk shall cause ballots to be printed fifty (50) days prior to each primary or ~~regular~~^{general} election, *and forty-five (45) days prior to a special election.*
- (6) The outer envelope shall bear the words "Absentee Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address, precinct number, and signatures of two (2) witnesses if the voter signs the form with the use of a mark instead of the voter's signature. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number, signatures of two (2) witnesses if the voter signs the form with the use of a mark instead of the voter's signature and notice of penalty provided in KRS 117.995(5). The clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application and the postal form required by subsection (3) of this section for twenty-two (22) months after the election.
- (7) Any person who has received an absentee ballot by mail but who knows at least seven (7) days before the date of the election that he or she will be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his or her absentee ballot and vote in person. The voter shall return the absentee ballot to the county clerk's office no later than seven (7) days prior to the date of the election. Upon the return of the absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent absentee ballots, and the voter may vote in the precinct in which he or she is properly registered.
- (8) Any voter qualified for a mail-in absentee ballot who does not receive a requested mail-in ballot within a reasonable amount of time shall contact the county clerk, who shall reissue a second ballot. The county clerk shall keep a record of the absentee ballots issued and returned by mail, and the absentee voting that is performed on the voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections, to verify that only the first voted ballot to be returned by the voter is counted. Upon the return of any ballot after the first ballot is returned, the clerk shall mark on the outer envelope of the sealed ballot the words "Canceled because ballot reissued."
- (9) Any *covered voter as defined in Section 2 of this Act* ~~member of the military~~ who has received an absentee ballot ~~by mail~~ but who knows that he or she will be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his or her absentee ballot and vote in person. The voter shall return the absentee ballot to the county clerk's office on or before election day. Upon the return of the absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. *If the covered voter is unable to return the absentee ballot to the county clerk's office on or before election day, at the time he or she votes in person, he or she shall sign a written oath as to his or her qualifications on the form prescribed by the State Board of Elections pursuant to KRS 117.245.* The clerk shall remove the voter's name from the list of persons who were sent absentee ballots, provide the voter with written authorization to vote at the precinct, and the voter may vote in the precinct in which he or she is properly registered.
- (10) *Notwithstanding the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884, the information contained in an application for an absentee ballot shall not be made public until after the close of business hours on the election day for which the application applies. This subsection shall not prohibit at any time the disclosure, upon request, of the total number of applications for absentee ballots that have been filed, or the disclosure to the Secretary of State or the State Board of Elections, if requested or if otherwise required by law, of any information in an application for an absentee ballot.*

➔Section 23. KRS 117.086 is amended to read as follows:

- (1) The voter returning his absentee ballot by mail shall mark his ballot, seal it in the inner envelope and then in the outer envelope, and mail it to the county clerk as shall be provided by this chapter. The voter shall sign the detachable flap and the outer envelope in order to validate the ballot. A person having power of attorney for the voter and who signs the detachable flap and outer envelope for the voter shall complete the voter assistance form as required by KRS 117.255. The signatures of two (2) witnesses are required if the voter signs the form with the use of a mark instead of the voter's signature. A resident of Kentucky who is a *covered voter as defined in Section 2 of this Act* ~~member of the Armed Forces, a dependent of a member of the Armed Forces,~~

~~or a citizen residing overseas]~~ who has received an absentee ballot transmitted by facsimile machine **or by means of the electronic transmission system established under subsection (4) of Section 4 of this Act** shall transmit the voted ballot to the county clerk by mail only, conforming with ballot security requirements that may be promulgated by the state board by administrative regulation. In order to be counted, the ballots shall be received by the clerk by at least the time established by the election laws generally for the closing of the polls, which time shall not include the extra hour during which those voters may vote who were waiting in line to vote at the scheduled poll closing time.

- (2) Any voter who shall be absent from the county on election day, but who does not qualify to receive an absentee ballot by mail under the provisions of KRS 117.085, and all voters qualified to vote prior to the election under the provisions of KRS 117.085, shall vote at the main office of the county clerk or other place designated by the county board of elections, and approved by the State Board of Elections, prior to the day of election. The clerk may provide for such voting by the voting equipment in general use in the county either at the precinct, the equipment as may be used to tabulate absentee ballots, or any other voting equipment approved by the State Board of Elections for use in Kentucky, except as follows:
 - (a) Any voter qualifying to vote in the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, who receives assistance to vote shall complete the voter assistance form required by KRS 117.255.
 - (b) Any voter qualifying to vote in the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, whose qualifications are challenged by any clerk or deputy shall complete an "Oath of Voter" affidavit.
- (3) When the clerk uses general voting equipment as provided for in subsection (2) of this section, each voter casting his vote at the clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, shall sign an "Absentee Ballot Signature Roster."
- (4) The clerk shall designate a location within his office where the ballots shall be cast secretly. The county clerk, with the approval of the State Board of Elections, may establish locations other than his main office in which the voters may execute their ballots. Public notice of the locations shall be given pursuant to KRS Chapter 424 and similar notice by mail shall be given to the county chairmen of the two (2) political parties whose candidates polled the largest number of votes in the county at the last general election.
- (5) The State Board of Elections shall promulgate administrative regulations to provide for casting ballots as provided in subsection (2) of this section.
- (6) The clerk shall deposit all of the absentee ballots returned by mail in a locked ballot box immediately upon receipt without opening the outer envelope. The ballot box shall be locked with three (3) locks. The keys to the box shall be retained by the three (3) members of the central absentee ballot counting board, if one is appointed, or by the members of the board of elections, and the box shall remain locked until the ballots are counted. All voting equipment on which ballots are cast as permitted in subsection (2) of this section shall also remain locked and the keys shall be retained by the three (3) members of the central absentee ballot counting board, if one is appointed, or by the members of the board of elections, and the equipment shall remain locked until the ballots are counted.
- (7) The clerk shall keep a list **for each election** of all persons who return their absentee ballots by mail or **who** cast their ballots in the clerk's office or other place designated by the county board of elections~~[-]~~ and approved by the State Board of Elections, and **shall** send a copy of ~~each~~~~that~~ list to the state board after **the** election day **for which the list applies. Notwithstanding the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884, each list of all persons who return their absentee ballots by mail or cast their ballots in the clerk's office or other designated and approved place shall not be made public until after the close of business hours on the election day for which the list applies.** The county clerk and the Secretary of State shall keep a record of the number of votes cast by absentee ballots returned by mail and **cast** on the voting machine in the county clerk's office or other place designated by the county board of elections~~[-]~~ and approved by the State Board of Elections, **which are** cast in any election as a part of the official returns of the election.
- (8) The county board of elections shall report to the State Board of Elections within ten (10) days after any primary or general election as to the number of rejected absentee ballots and the reasons for rejected absentee ballots on a form prescribed by the State Board of Elections in administrative regulations promulgated under KRS Chapter 13A.

➔Section 24. KRS 118.740 is amended to read as follows:

- (1) A copy of a proclamation issued under KRS 118.710 or 118.720, or a writ of election issued under KRS 118.730 shall be forwarded by mail to the sheriff of each county in the district in which the election is to be held, at least **fifty-six (56)**~~thirty-five (35)~~ days before the election. The sheriff of each county in which an election is to be held shall give notice at least **forty-nine (49)**~~twenty-eight (28)~~ days before the day of election. If, from any cause, the sheriff cannot properly act, he shall immediately hand the writ or proclamation to the person authorized to act in his place.
- (2) If a special election is administered under KRS 118.730(2), the notice required by subsection (1) of this section shall include the location of the election.

➔Section 25. KRS 118.770 is amended to read as follows:

When a writ of election or proclamation is issued to fill a vacancy as prescribed in KRS 118.710, 118.720, or 118.730, independent, or political organization, or political group petitions and certificates of nomination shall be filed at least **forty-nine (49)**~~twenty-eight (28)~~ days before the day of election, and if filed with the Secretary of State shall be immediately certified by him or her to the proper county clerks.

➔Section 26. The Legislative Research Commission is hereby directed to create a Military and Overseas Voting Assistance Task Force that shall study the election laws and absentee ballot procedures of the Commonwealth relating to military and overseas voters.

➔Section 27. The Military and Overseas Voting Assistance Task Force shall study and report on the following issues:

- (1) The current statutory time period available to military and overseas voters to request, receive, and return absentee ballots;
- (2) The factors, if any, that limit the ability of military and overseas voters to request, receive, and return absentee ballots within the current statutory time period for casting absentee ballots;
- (3) Any procedures that have been adopted in other states to facilitate more timely absentee ballot voting for military and overseas voters; and
- (4) The feasibility of military and overseas voters using a secure electronic transmission system to send voted absentee ballots.

➔Section 28. The Military and Overseas Voting Assistance Task Force shall consist of the following members, with final membership of the task force being subject to the consideration and approval of the Legislative Research Commission:

- (1) The chair of the Senate State and Local Government Committee, who shall be co-chair of the task force;
- (2) The chair of the House of Representatives Elections, Constitutional Amendments, and Intergovernmental Affairs Committee, who shall be co-chair of the task force;
- (3) The chair of the Senate Veterans, Military Affairs, and Public Protection Committee;
- (4) The chair of the House Veterans, Military Affairs, and Public Safety Committee;
- (5) The Secretary of State or his or her designee;
- (6) The Adjutant General of the Kentucky National Guard or his or her designee;
- (7) The Commissioner of the Commonwealth Office of Technology or his or her designee;
- (8) A current county clerk recommended by the task force co-chairs in consultation with the Kentucky County Clerk's Association;
- (9) An active or retired member of the United States Armed Forces that has served in some capacity at an overseas duty station recommended by the task force co-chairs.

➔Section 29. The task force shall submit a final report, along with recommendations and any proposed legislation, to the Legislative Research Commission by November 27, 2013, for referral to the appropriate committee.

➔Section 30. Provisions of Sections 26 to 29 of this Act to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified in those sections to an interim joint committee or subcommittee thereof and to designate a study completion date.

➔Section 31. Sections 26 to 29 of this Act shall have the same legal status as a Senate Concurrent Resolution.

➔SECTION 32. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) *For purposes of this section:*

- (a) *"Donor" means a qualified taxpayer who provides free of fee or charge edible agricultural products to a nonprofit food program operating in Kentucky;*
- (b) *"Edible agricultural products" means fruits, vegetables, beef, poultry, pork, fish, or any other edible product raised or grown in Kentucky that is intended for and fit for human consumption;*
- (c) *"Nonprofit food program" means a surplus food collection and distribution program operated and established to collect donated food for redistribution to persons in need and is recognized as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code; and*
- (d) *"Qualified taxpayer" means a person responsible for and deriving income from:*

- 1. *Growing fruits, vegetables, or other edible agricultural products; or*
- 2. *Raising beef, poultry, pork, fish, or other edible agricultural products.*

(2) (a) *For taxable years beginning on or after January 1, 2014, but before January 1, 2018, any donor shall be allowed a nonrefundable credit against the tax imposed by KRS 141.020, or 141.040 and 141.0401, with the ordering of credits as provided in Section 33 of this Act, in the amount equal to ten percent (10%) of the value of the donated edible agricultural products as determined under subsection (3)(b) of this section.*

(b) *A qualified taxpayer that is a pass-through entity not subject to the tax imposed by KRS 141.040 and that has tax credits approved under this section shall apply the credits against the limited liability entity tax imposed by KRS 141.0401, and shall also distribute the amount of the approved tax credits to each partner, member, or shareholder based on the partner's, member's, or shareholder's distributive share of income as determined for the year during which the tax credits are approved, with the ordering of credits as provided in Section 33 of this Act.*

(3) (a) *At the time of the donation, the donor shall provide to the nonprofit food program the estimated value of the donated edible agricultural products as determined under paragraph (b) of this subsection. The nonprofit food program shall provide to the donor, on a form prescribed by the department, a signed and dated statement containing, at a minimum:*

- 1. *The type and quantity of product donated;*
- 2. *The name, address, and taxpayer identification number of the donor or donors;*
- 3. *The name and address of the donee nonprofit food program; and*
- 4. *The estimated value of the donated edible agricultural products, as provided by the donor.*

(b) *The donor shall determine the value of the donated edible agricultural products as follows:*

- 1. *If there was a previous sale of the edible agricultural products to a buyer, the donor should retain a copy of an invoice or other statement identifying the price received by the donor for the edible agricultural products of comparable grade or quality; or*
- 2. *If there is no previous sale to a buyer, the donor shall on the date of the donation, determine the value of the donated edible agricultural products based on the fair market value as determined by average weekly regional produce auction prices or United States Department of Agriculture prices for meat, fish, and dairy products.*

(4) *A qualified taxpayer claiming the tax credit permitted under this section shall attach the form prescribed under subsection (3) of this section to the tax return claiming the credit.*

(5) *Any tax credit allowable under this section that is not used by the qualified taxpayer in the current tax year may be carried forward for up to four (4) succeeding years, until the credit has been exhausted.*

(6) *The department may promulgate administrative regulations to carry out this section.*

➔Section 33. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

- (1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:
 - (a) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);
 2. For taxable years beginning after December 31, 2006, the limited liability entity tax credit permitted by KRS 141.0401;
 - (b) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;
 - (c) ***The qualified farming operation credit permitted by KRS 141.412;***
 - (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - ~~(e)(d)~~ The health insurance credit permitted by KRS 141.062;
 - ~~(f)(e)~~ The tax paid to other states credit permitted by KRS 141.070;
 - ~~(g)(f)~~ The credit for hiring the unemployed permitted by KRS 141.065;
 - ~~(h)(g)~~ The recycling or composting equipment credit permitted by KRS 141.390;
 - ~~(i)(h)~~ The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - ~~(j)(i)~~ The coal incentive credit permitted under KRS 141.0405;
 - ~~(k)(j)~~ The research facilities credit permitted under KRS 141.395;
 - ~~(l)(k)~~ The employer GED incentive credit permitted under KRS 151B.127;
 - ~~(m)(l)~~ The voluntary environmental remediation credit permitted by KRS 141.418;
 - ~~(n)(m)~~ The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - ~~(o)(n)~~ The environmental stewardship credit permitted by KRS 154.48-025;
 - ~~(p)(o)~~ The clean coal incentive credit permitted by KRS 141.428;
 - ~~(q)(p)~~ The ethanol credit permitted by KRS 141.4242;
 - ~~(r)(q)~~ The cellulosic ethanol credit permitted by KRS 141.4244;
 - ~~(s)(r)~~ The energy efficiency credits permitted by KRS 141.436;
 - ~~(t)(s)~~ The railroad maintenance and improvement credit permitted by KRS 141.385;
 - ~~(u)(t)~~ The Endow Kentucky ~~tax~~ credit permitted by KRS 141.438; ~~and~~
 - ~~(v)(u)~~ The New Markets Development Program ~~tax~~ credit permitted by KRS 141.434; ***and***
 - (w) ***The food donation credit permitted by Section 32 of this Act.***
- (2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:
 - (a) The individual credits permitted by KRS 141.020(3);
 - (b) The credit permitted by KRS 141.066;
 - (c) The tuition credit permitted by KRS 141.069;
 - (d) The household and dependent care credit permitted by KRS 141.067; and
 - (e) The new home credit permitted by KRS 141.388.
- (3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
 - (a) The individual withholding tax credit permitted by KRS 141.350;

- (b) The individual estimated tax payment credit permitted by KRS 141.305;
 - (c) For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(c);
 - (d) The certified rehabilitation credit permitted by KRS ~~171.397(1)(b)~~~~[141.382(1)(b)]~~; and
 - (e) The film industry tax credit allowed by KRS 141.383.
- (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.
- (5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:
- (a) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;
 - (b) ***The qualified farming operation credit permitted by KRS 141.412;***
 - (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - ~~(d)(e)~~ The health insurance credit permitted by KRS 141.062;
 - ~~(e)(d)~~ The unemployment credit permitted by KRS 141.065;
 - ~~(f)(e)~~ The recycling or composting equipment credit permitted by KRS 141.390;
 - ~~(g)(f)~~ The coal conversion credit permitted by KRS 141.041;
 - ~~(h)(g)~~ The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;
 - ~~(i)(h)~~ The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - ~~(j)(i)~~ The coal incentive credit permitted under KRS 141.0405;
 - ~~(k)(j)~~ The research facilities credit permitted under KRS 141.395;
 - ~~(l)(k)~~ The employer GED incentive credit permitted under KRS 151B.127;
 - ~~(m)(l)~~ The voluntary environmental remediation credit permitted by KRS 141.418;
 - ~~(n)(m)~~ The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - ~~(o)(n)~~ The environmental stewardship credit permitted by KRS 154.48-025;
 - ~~(p)(o)~~ The clean coal incentive credit permitted by KRS 141.428;
 - ~~(q)(p)~~ The ethanol credit permitted by KRS 141.4242;
 - ~~(r)(q)~~ The cellulosic ethanol credit permitted by KRS 141.4244;
 - ~~(s)(r)~~ The energy efficiency credits permitted by KRS 141.436;
 - ~~(t)(s)~~ The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437;
 - ~~(u)(t)~~ The railroad maintenance and improvement credit permitted by KRS 141.385;
 - ~~(v)(u)~~ The railroad expansion credit permitted by KRS 141.386;
 - ~~(w)(v)~~ The Endow Kentucky~~-tax~~ credit permitted by KRS 141.438;~~and~~
 - ~~(x)(w)~~ The New Markets Development Program~~-tax~~ credit permitted by KRS 141.434; ***and***
 - (y) ***The food donation credit permitted by Section 32 of this Act.***
- (6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable credits shall be taken in the following order:
- (a) The corporation estimated tax payment credit permitted by KRS 141.044;
 - (b) The certified rehabilitation credit permitted by KRS ~~171.397~~~~[141.382]~~(1)(b); and

(c) The film industry tax credit allowed in KRS 141.383.

➔Section 34. Sections 1 to 23 of this Act shall take effect July 1, 2014.

➔Section 35. Because the provisions in Section 24 and 25 of this Act are essential to protect the right of all military and overseas voters to cast a vote in elections in the Commonwealth of Kentucky and to have those votes counted, an emergency is declared to exist, and Sections 24 and 25 of this Act take effect upon the Act's passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 5, 2013.

CHAPTER 132

(SB 3)

AN ACT relating to exemption of religious organizations from the insurance code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 304.1-120 is amended to read as follows:

No provision of this code shall apply to:

- (1) Fraternal benefit societies (as identified in Subtitle 29), except as stated in Subtitle 29.
- (2) Nonprofit hospital, medical-surgical, dental, and health service corporations (as identified in Subtitle 32) except as stated in Subtitle 32.
- (3) Burial associations (as identified in KRS Chapter 303), except as stated in Subtitle 31.
- (4) Assessment or cooperative insurers (as identified in KRS Chapter 299), except as stated in KRS Chapter 299.
- (5) Insurance premium finance companies (as identified in Subtitle 30), except as stated in Subtitle 30.
- (6) Qualified organizations which issue charitable gift annuities within the Commonwealth of Kentucky. For the purposes of this subsection:
 - (a) A "qualified organization" means one which is:
 1. Exempt from taxation under Section 501(c)(3) of the Internal Revenue Code as a charitable organization, if it files a copy of federal form 990 with the Division of Consumer Protection in the Office of the Attorney General; or
 2. Exempt from taxation under Section 501(c)(3) of the Internal Revenue Code as a religious organization; or
 3. Exempt as a publicly owned or nonprofit, privately endowed educational institution approved or licensed by the State Board of Education, the Southern Association of Colleges and Schools, or an equivalent public authority of the jurisdiction where the institution is located; and
 - (b) A "charitable gift annuity" means a giving plan or method by which a gift of cash or other property is made to a qualified organization in exchange for its agreement to pay an annuity.
- (7) A religious ***organization***, ~~publication (as identified in this subsection)~~, or its ***participants*** ~~subscribers~~, that ~~limit their operations to those activities permitted by this subsection, and~~:
 - (a) Is a nonprofit religious organization;
 - (b) Is limited to ***participants*** ~~subscribers~~ who are members of the same denomination or religion;
 - (c) ***Matches its participants*** ~~Acts as an organizational clearinghouse for information between subscribers~~ who have financial, physical, or medical needs ***with participants*** ~~and subscribers~~ who choose to assist with those needs ~~matching subscribers with the present ability to pay with subscribers with a present financial or medical need~~;
 - (d) ***Includes the following notice for delivery to all participants, printed in not less than ten (10) point, bold-faced type on or accompanying all applications, guideline materials, or any similar documents:***

"NOTICE: UNDER KENTUCKY LAW, THE RELIGIOUS ORGANIZATION FACILITATING THE SHARING OF MEDICAL EXPENSES IS NOT AN INSURANCE COMPANY, AND ITS GUIDELINES, PLAN OF OPERATION, OR ANY OTHER DOCUMENT OF THE RELIGIOUS ORGANIZATION DO NOT CONSTITUTE OR CREATE AN INSURANCE POLICY. PARTICIPATION IN THE RELIGIOUS ORGANIZATION OR A SUBSCRIPTION TO ANY OF ITS DOCUMENTS SHALL NOT BE CONSIDERED INSURANCE. ANY ASSISTANCE YOU RECEIVE WITH YOUR MEDICAL BILLS WILL BE TOTALLY VOLUNTARY. NEITHER THE ORGANIZATION OR ANY PARTICIPANT SHALL BE COMPELLED BY LAW TO CONTRIBUTE TOWARD YOUR MEDICAL BILLS. WHETHER OR NOT YOU RECEIVE ANY PAYMENTS FOR MEDICAL EXPENSES, AND WHETHER OR NOT THIS ORGANIZATION CONTINUES TO OPERATE, YOU SHALL BE PERSONALLY RESPONSIBLE FOR THE PAYMENT OF YOUR MEDICAL BILLS."; and

(e) A participant shall acknowledge receipt of the "Notice" by signing below the "Notice" on the application;

~~[(d) Pays for the subscribers' financial or medical needs by payments directly from one (1) subscriber to another;]~~

~~(f)[(e)]~~ Suggests amounts to give that are voluntary among the *participants*~~[subscribers]~~, with no assumption of risk or promise to pay either among the *participants*~~[subscribers]~~ or between the *participants*~~[subscribers]~~ and the *organization*~~[publication]~~.~~[-; and~~

~~(f) Provides the following verbatim written disclaimer as a separate cover sheet for all documents distributed by or on behalf of the exempt entity, including all applications, guidelines, promotional or informational materials, and all periodic publications:~~

~~—————"This publication is not issued by an insurance company nor is it offered through an insurance company. This publication does not guarantee or promise that your medical bills will be published or assigned to others for payment.~~

~~—————Whether anyone chooses to pay your medical bills will be totally voluntary. This publication should never be considered as a substitute for an insurance policy.~~

~~—————Whether you receive any payments for medical expenses, and whether or not this publication continues to operate, you will always remain liable for any unpaid bills."~~

(8) A public or private ambulance service licensed and regulated by the Cabinet for Health and Family Services to the extent that it solicits membership subscriptions, accepts membership applications, charges membership fees, and furnishes prepaid or discounted ambulance services to subscription members and designated members of their households.

Signed by Governor April 5, 2013.

CHAPTER 133

(SB 8)

AN ACT relating to school safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

(a) *"Emergency management response plan" or "emergency plan" means a written document to prevent, mitigate, prepare for, respond to, and recover from emergencies; and*

(b) *"First responders" means local fire, police, and emergency medical personnel.*

(2) (a) *Each local board of education shall require the school council or, if none exists, the principal in each public school building in its jurisdiction to adopt an emergency plan to include procedures to be*

followed in case of fire, severe weather, or earthquake, or if a building lockdown as defined in KRS 158.164 is required.

- (b) *Following adoption, the emergency plan, along with a diagram of the facility, shall be provided to appropriate first responders.*
 - (c) *The emergency plan shall be reviewed following the end of each school year by the school council, the principal, and first responders and shall be revised as needed.*
 - (d) *The principal shall discuss the emergency plan with all school staff prior to the first instructional day of each school year and shall document the time and date of any discussion.*
 - (e) *The emergency plan and diagram of the facility shall be excluded from the application of KRS 61.870 to 61.884.*
- (3) *Each local board of education shall require the school council or, if none exists, the principal in each public school building to:*
- (a) *Establish primary and secondary evacuation routes for all rooms located within the school and shall post the routes in each room by any doorway used for evacuation;*
 - (b) *Identify severe weather safe zones to be reviewed by the local fire marshal or fire chief and post the location of safe zones in each room of the school;*
 - (c) *Develop practices for students to follow during an earthquake; and*
 - (d) *Develop and adhere to practices to control the access to each school building. Practices may include but not be limited to:*
 - 1. *Controlling outside access to exterior doors during the school day;*
 - 2. *Controlling the front entrance of the school electronically or with a greeter;*
 - 3. *Controlling access to individual classrooms. If a classroom is equipped with hardware that allows the door to be locked from the outside but opened from the inside, the door should remain locked during instruction time;*
 - 4. *Requiring all visitors to report to the front office of the building, provide valid identification, and state the purpose of the visit; and*
 - 5. *Providing a visitor's badge to be visibly displayed on a visitor's outer garment.*
- (4) *Each local board of education shall require the principal in each public school building in its jurisdiction to conduct, at a minimum, emergency response drills to include one (1) severe weather drill, one (1) earthquake drill and one (1) lockdown drill within the first thirty (30) instructional days of each school year and again during the month of January. Required fire drills shall be conducted according to administrative regulations promulgated by the Department of Housing, Buildings and Construction. Whenever possible, first responders shall be invited to observe emergency response drills.*
- (5) *No later than November 1 of each school year, a local district superintendent shall send verification to the Kentucky Department of Education that all schools within the district are in compliance with the requirements of this section.*

➔Section 2. KRS 158.163 is amended to read as follows:

The board of each local school district, and the governing body of each private and parochial school or school district, shall establish an earthquake and tornado emergency procedure system in every public or private school building in its jurisdiction having a capacity of fifty (50) or more students, or having more than one (1) classroom. The earthquake and tornado emergency procedure system shall include, but not be limited to, all of the following:

- (1) A school building disaster plan, ready for implementation at any time, for maintaining the safety and care of students and staffs. A drop procedure and safe area evacuation practice shall be held at least twice during each school year, *with the first practice for a drop procedure and a safe area evacuation being held within the first thirty (30) instructional days of each school year and one (1) practice being held during the month of January;*
- (2) A drop procedure. As used in this section, "drop procedure" means an activity by which each student and staff member takes cover under a table or desk, dropping to his or her knees, with the head protected by the arms, and the back to the windows;

- (3) A safe area. As used in this section, "safe area" means a designated space including an enclosed area with no windows, a basement or the lowest floor using the interior hallway or rooms, or taking shelter under sturdy furniture;
- (4) Protective measures to be taken before, during, and following an earthquake or tornado; and
- (5) A program to ensure that the students and the certificated and classified staff are aware of, and properly trained in, the earthquake and tornado emergency procedure system.

➔Section 3. KRS 158.164 is amended to read as follows:

- (1) As used in this section, "building lockdown" means to restrict the mobility of building occupants to maintain their safety and care.
- (2) Each local board of education shall require the school council or, if none exists, the principal in each public school building in its jurisdiction to establish procedures to perform a building lockdown, including protective measures to be taken during and immediately following the lockdown. ***Local law enforcement agencies shall be invited to assist in establishing lockdown procedures.***
- (3) Students~~[-, parents, guardians]~~, certified staff, and classified staff shall be informed annually of building lockdown procedures.
- (4) A building lockdown practice shall be held at least ~~twice~~~~[once]~~ during each school year, ***with at least one (1) practice being held within the first thirty (30) instructional days of the school year and one (1) practice being held during the month of January.***

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

The Kentucky Department of Education shall require a local board of education to review Crime Prevention Through Environment Design principles, or CPTED principles, when constructing a new school building or when renovating an existing school building.

➔Section 5. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

The Kentucky Department of Education shall develop protocols for student records within the student information system which:

- (1) ***Provide notice to schools receiving the records of prior offenses described in KRS 610.345 committed by a student transferring to a new school or district; and***
- (2) ***Protect the privacy rights of students and parents guaranteed under the federal Family Educational Rights and Privacy Act.***

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

The chief of police in each city is encouraged to receive training on issues pertaining to school and student safety and shall be invited to meet annually with local superintendents to discuss emergency response plans and emergency response concerns.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

The sheriff in each county is encouraged to receive training on issues pertaining to school and student safety, and shall be invited to meet annually with local school superintendents to discuss emergency response plans and emergency response concerns.

➔Section 8. KRS 160.345 is amended to read as follows:

- (1) For the purpose of this section:
 - (a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school;
 - (b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal and is not a program or part of another school. The term "school" does not include district-operated schools that are:
 1. Exclusively vocational-technical, special education, or preschool programs;
 2. Instructional programs operated in institutions or schools outside of the district; or

3. Alternative schools designed to provide services to at-risk populations with unique needs;
 - (c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state, with the exception of principals and assistant principals; and
 - (d) "Parent" means:
 1. A parent, stepparent, or foster parent of a student; or
 2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.
- (2) Each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:
- (a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. A parent representative on the council shall not be an employee or a relative of an employee of the school in which that parent serves, nor shall the parent representative be an employee or a relative of an employee in the district administrative offices. A parent representative shall not be a local board member or a board member's spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees;
 - (b)
 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. A teacher elected to a school council shall not be involuntarily transferred during his or her term of office. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected. The principal shall be the chair of the school council.
 2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:
 - a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and
 - b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty;
 - (c)
 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.
 2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection;

- (d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy;
- (e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply;
- (f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals;
- (g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council. The school council shall consult with the school media librarian on the maintenance of the school library media center, including the purchase of instructional materials, information technology, and equipment;
- (h) Personnel decisions at the school level shall be as follows:
 - 1. From a list of qualified applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council, consistent with paragraph(i) ~~II.10.~~ of this subsection. The superintendent shall provide additional applicants to the principal upon request when qualified applicants are available. The superintendent may forward to the school council the names of qualified applicants who have pending certification from the Education Professional Standards Board based on recent completion of preparation requirements, out-of-state preparation, or alternative routes to certification pursuant to KRS 161.028 and 161.048. Requests for transfer shall conform to any employer-employee bargained contract which is in effect;
 - 2. If the vacancy to be filled is the position of principal, the outgoing principal shall not serve on the council during the principal selection process. The superintendent or the superintendent's designee shall serve as the chair of the council for the purpose of the hiring process and shall have voting rights during the selection process. The council shall have access to the applications of all persons certified for the position. The principal shall be elected on a majority vote of the membership of the council. No principal who has been previously removed from a position in the district for cause may be considered for appointment as principal. The school council shall receive training in recruitment and interviewing techniques prior to carrying out the process of selecting a principal. The council shall select the trainer to deliver the training;
 - 3. Personnel decisions made at the school level under the authority of subparagraphs 1., 2., and 4. of this paragraph shall be binding on the superintendent who completes the hiring process;
 - 4. If the vacancy for the position of principal occurs in a school that has an index score that places it in the lowest one-third (1/3) of all schools below the assistance line and the school has completed a scholastic audit under KRS 158.6455 that includes findings of lack of effectiveness of the principal and school council, the superintendent shall appoint the principal after consulting with the school council;
 - 5. Applicants subsequently employed shall provide evidence that they are certified prior to assuming the duties of a position in accordance with KRS 161.020; and
 - 6. Notwithstanding other provisions of this paragraph, if the applicant is the spouse of the superintendent and the applicant meets the service requirements of KRS 160.380(2)(e), the applicant shall only be employed upon the recommendation of the principal and the approval of a majority vote of the school council;
- (i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:
 - 1. Determination of curriculum, including needs assessment, curriculum development and responsibilities under KRS 158.6453(7);

2. Assignment of all instructional and noninstructional staff time;
 3. Assignment of students to classes and programs within the school;
 4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
 5. Determination of use of school space during the school day;
 6. Planning and resolution of issues regarding instructional practices;
 7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;
 8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;
 9. *Adoption of an emergency plan as required in Section 1 of this Act;*
 10. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal; and
 - ~~11[10].~~ Procedures to assist the council with consultation in the selection of personnel by the principal, including but not limited to meetings, timelines, interviews, review of written applications, and review of references. Procedures shall address situations in which members of the council are not available for consultation; and
- (j) Each school council shall annually review data as shown on state and local student assessments and program assessments required under KRS 158.6453. The data shall include but not be limited to information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, and participation in the federal free and reduced price lunch program. After completing the review of data, each school council, with the involvement of parents, faculty, and staff, shall develop and adopt a plan to ensure that each student makes progress toward meeting the goals set forth in KRS 158.645 and 158.6451(1)(b) by April 1 of each year and submit the plan to the superintendent and local board of education for review as described in KRS 160.340. The Kentucky Department of Education shall provide each school council the data needed to complete the review required by this paragraph no later than November 1 of each year. If a school does not have a council, the review shall be completed by the principal with the involvement of parents, faculty, and staff.
- (3) The policies adopted by the local board to implement school-based decision making shall also address the following:
- (a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;
 - (b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;
 - (c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;
 - (d) Professional development plans developed pursuant to KRS 156.095;
 - (e) Parent, citizen, and community participation including the relationship of the council with other groups;
 - (f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;
 - (g) Requirements for waiver of district policies;
 - (h) Requirements for record keeping by the school council; and
 - (i) A process for appealing a decision made by a school council.

- (4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.
- (5) All schools shall implement school-based decision making in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school meeting its goal as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.
- (6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making no later than one hundred twenty (120) days after the beginning of the service year for which they are elected to serve. Experienced members may participate in the training for new members to fulfill their training requirement. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education. By November 1 of each year, the principal through the local superintendent shall forward to the Department of Education the names and addresses of each council member and verify that the required training has been completed. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.
- (7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making, including but not limited to a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the commissioner of education and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.
- (8) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development in compliance with requirements specified in KRS 156.095, except as provided in KRS 158.649. School councils of small schools shall be encouraged to work with other school councils to maximize professional development opportunities.
- (9)
 - (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.
 - (b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.
 - (c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.

- (d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.
- (10) Notwithstanding subsections (1) to (9) of this section, a school's right to establish or maintain a school-based decision making council and the powers, duties, and authority granted to a school council may be rescinded or the school council's role may be advisory if the commissioner of education or the Kentucky Board of Education takes action under KRS 160.346.
- (11) Each school council of a school containing grades K-5 or any combination thereof, or if there is no school council, the principal, shall develop and implement a wellness policy that includes moderate to vigorous physical activity each day and encourages healthy choices among students. The policy may permit physical activity to be considered part of the instructional day, not to exceed thirty (30) minutes per day, or one hundred and fifty (150) minutes per week. Each school council, or if there is no school council, the principal, shall adopt an assessment tool to determine each child's level of physical activity on an annual basis. The council or principal may utilize an existing assessment program. The Kentucky Department of Education shall make available a list of available resources to carry out the provisions of this subsection. The department shall report to the Legislative Research Commission no later than November 1 of each year on how the schools are providing physical activity under this subsection and on the types of physical activity being provided. The policy developed by the school council or principal shall comply with provisions required by federal law, state law, or local board policy.

Signed by Governor April 5, 2013.

CHAPTER 134

(SB 50)

AN ACT relating to industrial hemp.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 260.850 is amended to read as follows:

As used in KRS 260.850 to 260.869~~[, unless the context requires otherwise]:~~

- (1) ***"Agribusiness" has the same meaning as in Section 16 of this Act;***
- (2) ***"Certified seed" means industrial hemp seed, including but not limited to Kentucky heritage hemp seed, that has been certified as having no more tetrahydrocannabinol concentration than that adopted by federal law in the Controlled Substances Act, 21 U.S.C. secs. 801 et seq.;***
- (3) "Commission" means the Industrial Hemp Commission created by KRS 260.857;
- ~~(4)(2) "Grower" means any person licensed to grow industrial hemp by the commission pursuant to Section 11 of this Act["Commissioner" means the Commissioner of the Department of Agriculture, or the Commissioner's designee];~~
- ~~(5)(3) "Department" means the Kentucky Department of Agriculture;~~
- ~~(4) "Hemp products" means all products made from industrial hemp, including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed, seed meal and seed oil for consumption, and certified seed for cultivation if the seeds originate from industrial hemp varieties;~~
- (6) (a)~~(5)~~ ***"Industrial hemp" means all parts and varieties of the plant cannabis sativa, cultivated or possessed by a licensed grower, whether growing or not, that contain a tetrahydrocannabinol concentration of no more than that adopted by federal law in the Controlled Substances Act, 21 U.S.C. secs. 801 et seq.***
- (b) ***"Industrial hemp" as defined and applied in Sections 1 to 14 of this Act is excluded from the definition of marijuana in KRS 218A.010[all parts and varieties of the plant cannabis sativa, cultivated or possessed by a licensed grower, whether growing or not, that contain a tetrahydrocannabinol***

concentration of one percent (1%) or less by weight, except that the THC concentration limit of one percent (1%) may be exceeded for licensed industrial hemp seed research. Industrial hemp, as defined and applied for the purposes of KRS 260.850 to 260.869, shall be excluded from the definition of marijuana, as defined in KRS 218A.010;

- (7) ***"Kentucky heritage hemp seed" means industrial hemp seed that possesses characteristics of the unique and specialized industrial hemp seed variety that originated in the Commonwealth and has been recognized historically as a signature export of this state;***
- (8){(6)} "Seed research" means research conducted to develop or recreate better strains of industrial hemp, particularly for the purposes of seed production. In conducting this research, higher THC concentration varieties of industrial hemp may be grown to provide breeding strains to revitalize the production of a Kentucky strain of industrial hemp. However, in no case shall the THC levels exceed ***three-tenths of one percent (0.3%)***{three percent (3%)}; and
- (9){(7)} "Tetrahydrocannabinol" or "THC" means the natural or synthetic equivalents of the substances contained in the plant, or in the resinous extractives of, cannabis, or any synthetic substances, compounds, salts, or derivatives of the plant or chemicals and their isomers with similar chemical structure and pharmacological activity.

➔SECTION 2. A NEW SECTION OF KRS 260.850 TO 260.869 IS CREATED TO READ AS FOLLOWS:

- (1) ***The purpose of Sections 1 to 14 of this Act is to assist the Commonwealth in moving to the forefront of industrial hemp production, development, and commercialization of hemp products in agribusiness, alternative fuel production, and other business sectors, both nationally and globally and to the greatest extent possible. These purposes shall be accomplished, in part, through:***
- (a) ***The auspices of the Industrial Hemp Commission created by Section 5 of this Act;***
- (b) ***The industrial hemp research program overseen by the commission, working in conjunction with the staff of the University of Kentucky Agricultural Experiment Station, along with the University of Louisville, the various comprehensive universities as defined in KRS 164.001, and other research partners. This research program shall include the planting, cultivation, and analysis of industrial hemp demonstration plots by selected growers that are licensed by the commission pursuant to Section 11 of this Act; and***
- (c) ***The pursuit of any federal permits or waivers necessary to allow industrial hemp to be grown in the Commonwealth.***
- (2) ***The General Assembly hereby finds and declares that the authority granted in Sections 1 to 14 of this Act and the purposes accomplished hereby are proper governmental and public purposes, and that the development of industrial hemp production and commercial markets for hemp products within the Commonwealth is important to its economic well-being.***

➔Section 3. KRS 260.851 is amended to read as follows:

The ***commission***{department} shall promulgate administrative regulations, in accordance with{ the provisions of} KRS Chapter 13A, ***as necessary to administer the industrial hemp research program, and to license persons to grow industrial hemp, pursuant to Sections 1 to 14 of this Act***{research on industrial hemp and hemp products}. ***The commission shall include as part of its administrative regulations, at a minimum, the establishment of industrial hemp testing criteria and protocols.***

➔Section 4. KRS 260.853 is amended to read as follows:

- (1) The ***commission***{Department of Agriculture} shall promote the research and development of ***industrial hemp, and commercial*** markets for Kentucky industrial hemp and hemp products,{ after the selection and establishment of the industrial hemp research program and the Industrial Hemp Commission, and} ***as provided in this section, to the extent***{provided} that adequate funds are available ***and are approved by the commission*** for these purposes from the industrial hemp program fund. The ***commission***{department} shall work cooperatively with selected Kentucky university or universities' agricultural research programs utilizing the expertise of the university or universities in the area of agricultural research.
- (2) {The Council on Postsecondary Education shall select a university or universities where the industrial hemp research program is to be established, after proposals are considered from all interested universities with agriculture departments in Kentucky-

- (3) *In addition to its other pursuits, the commission*~~[selected institutions' industrial hemp research program]~~ shall undertake research of industrial hemp production *through the establishment and oversight of a five (5) year industrial hemp research program, to be directly managed by the University of Kentucky Agricultural Experiment Station, to the extent that adequate funds are available for the program from the industrial hemp program fund. This research program shall consist primarily of demonstration plots planted and cultivated in this~~[the]~~ state *by selected growers, which shall be required to be licensed by the commission pursuant to Section 11 of this Act prior to planting any industrial hemp.**
- (3) The *commission*~~[department]~~ shall *pursue any*~~[assist the industrial hemp research program in obtaining the necessary federal]~~ permits *or waivers* from the United States Drug Enforcement Agency or appropriate federal agency *that are necessary for the advancement of the industrial hemp research program.*
- (4) *As part of*~~[In undertaking]~~ the industrial hemp research program~~[,]~~ *the commission shall, through the University of Kentucky Agricultural Experiment Station and in collaboration with the University of Louisville, the various comprehensive universities as defined in KRS 164.001, to the greatest extent possible according to the particular area of research expertise of each university, and other research partners*~~[university or universities are authorized to]:~~
- (a) *Oversee and analyze the growth of*~~[grow]~~ industrial hemp *by selected and licensed growers, for*~~[to conduct]~~ agronomy research and analysis of required soils, growing conditions, and harvest methods relating to the production of *various varieties of* industrial hemp *that may be suitable for various commercial hemp products*~~[, including but not limited to hemp seed, paper, clothing, and oils];~~
 - (b) Conduct seed research on various types of industrial hemp that are best suited to be grown in Kentucky, including but not limited to seed availability, creation of Kentucky hybrid types, in-the-ground variety trials and seed production, *and establish a program to recognize certain industrial hemp seed as being Kentucky heritage hemp seed;*
 - (c) Study the economic feasibility of developing an industrial hemp market in various types of industrial hemp that can be grown in the Commonwealth;
 - (d) Report on the estimated value-added benefits, including environmental benefits, that Kentucky businesses would reap by having an industrial hemp market of Kentucky-grown industrial hemp varieties in the Commonwealth;
 - (e) Study the agronomy research being conducted worldwide relating to industrial hemp varieties, production, and utilization;
 - (f) Research and promote Kentucky industrial hemp and hemp seed on the world market that can be grown on farms in the Commonwealth; and
 - (g) Study the feasibility of attracting *federal and* private funding for the Kentucky industrial hemp research program.
- (5) *In addition to the research and analysis outlined in subsection (4) of this section, the commission shall:*
- (a) *Coordinate with the University of Kentucky Center for Applied Energy Research to study the use of industrial hemp in new energy technologies. This research shall include but not be limited to:*
 1. *Evaluation of the use of industrial hemp to generate electricity, and to produce biofuels and other forms of energy resources;*
 2. *Growth of industrial hemp on reclaimed mine sites;*
 3. *Use of hemp seed oil in the production of fuels; and*
 4. *An assessment of the production costs, environmental issues, and costs and benefits involved with the use of industrial hemp for energy; and*
 - (b) *Coordinate with the Cabinet for Economic Development to promote awareness of the financial incentives that may be available to agribusiness and manufacturing companies that manufacture industrial hemp into hemp products, as provided through the Kentucky Business Investment program pursuant to Subchapter 32 of KRS Chapter 154, in order to diversify the agricultural economy of the Commonwealth, attract new businesses to the state, create new job opportunities for Kentucky residents, and create a commercial market for industrial hemp.*

- (6)~~(4)~~ The *research activities outlined*~~[authorization granted]~~ in *subsections*~~[subsection]~~ (4) and (5)~~(3)~~ of this section shall not:
- (a) Subject the industrial hemp research program~~[or the selected university or universities where it is located]~~ to any criminal liability under the controlled substances laws of the Commonwealth. This exemption from criminal liability is a limited exemption that shall be strictly construed and that shall not apply to any activities of the industrial hemp research program~~[or the selected university or universities]~~ that are not expressly permitted in the authorization; ~~or~~;
- (b) ~~{(5) The authorization granted in subsection (3) of this section shall not}~~ Alter, amend, or repeal by implication any provision of the Kentucky Revised Statutes relating to controlled substances.
- (7)~~(6)~~ The *commission*~~[selected university or universities of the industrial hemp research program]~~ shall notify the *Department of Kentucky State Police*~~[headquarters of the Department of Kentucky State Police, the local barracks of the Department of Kentucky State Police,]~~ and all~~[other]~~ local law enforcement agencies of the duration, size, and location of all industrial hemp *demonstration* plots.
- (8)~~(7)~~ The *commission*~~[Commissioner and the university or universities]~~ may cooperatively seek funds from both public and private sources to implement *the industrial hemp research program*~~[this section]~~. The funds shall be deposited into the industrial hemp program fund.
- (9)~~(8)~~ By *December 31, 2013*,~~[October 1, 2004,]~~ and annually thereafter, the *commission*~~[university or universities]~~ shall report on the status and progress of the industrial hemp research program~~[authorized by this section]~~ to the *Governor and to the Legislative Research Commission*~~[Commissioner, the Industrial Hemp Commission, and the Interim Joint Committee on Agriculture, and the Interim Joint Committee on Natural Resources and Environment]~~.

➔Section 5. KRS 260.857 is amended to read as follows:

- (1) The Kentucky Industrial Hemp Commission is created and is attached to the *University of Kentucky Agricultural Experiment Station*~~[Department of Agriculture]~~ for administrative purposes.
- (2) The membership of the commission shall consist of at least *the following*~~[seventeen (17)]~~ members~~[as follows]~~:
- (a)~~(1)~~ The Speaker of the House of Representatives or the Speaker's designee;
- (b)~~(2)~~ The President of the Senate or the President's designee;
- (c)~~(3)~~ The chair of the Senate Agriculture Committee;
- (d)~~(4)~~ The chair of the House Agriculture and Small Business Committee;
- (e)~~(5)~~ The Commissioner of the Department of Agriculture or the Commissioner's designee;
- (f)~~(6)~~ The commissioner of the Department of Kentucky State Police or the commissioner's designee;
- (g)~~(7)~~ The executive director of the Governor's Office of Agricultural Policy or the executive director's designee;
- (h)~~(8)~~ *The dean of the University of Kentucky College of Agriculture or the dean's designee*~~[The chairs of the agriculture departments at the Kentucky university or universities where the industrial hemp research program is to be established]~~;
- (i)~~(9)~~ *One (1) member representing each of the following institutions choosing to participate in the commission:*
1. *Eastern Kentucky University;*
 2. *Kentucky State University;*
 3. *Morehead State University;*
 4. *Murray State University;*
 5. *Northern Kentucky University;*
 6. *University of Louisville; and*
 7. *Western Kentucky University;*

- (j) The president of the Kentucky Hemp Growers Cooperative Association;
 - (k)~~(10)~~ The president of the Kentucky Sheriffs' Association *or the association president's designee*;
 - (l)~~(11)~~ The president of the Kentucky Association of Chiefs of Police *or the association president's designee*; ~~and~~
 - (m)~~(12)~~ Six (6) members, three (3) appointed by the Speaker of the House and three (3) by the President of the Senate, representing the following interests:
 - 1.~~(a)~~ Kentucky farmers with an interest in growing industrial hemp;
 - 2.~~(b)~~ Retailers of industrial hemp products;
 - 3.~~(c)~~ Wholesalers of industrial hemp products; and
 - 4.~~(d)~~ Manufacturers of industrial hemp products; *and*
 - (n) *Two (2) at-large members on a recommendation of the chair and approved by a majority of the members of the commission.*
- (3) (a) *Except as provided in paragraph (b) of this subsection, members appointed pursuant to subsections (2)(m) and (2)(n) of this section shall serve a term of four (4) years, and may be reappointed.*
- (b) *The term of office of each member appointed pursuant to subsections (2)(m) and (2)(n) of this section, whom is serving on the commission on the effective date of this Act, shall expire on December 31, 2013. Upon the expiration of a member's term of office pursuant to this paragraph, that position shall be filled by appointment as provided in this section.*

➔Section 6. KRS 260.859 is amended to read as follows:

- (1) A majority of the members of the commission shall constitute a quorum.
- (2) *The Commissioner of the Department of Agriculture shall serve as vice chair, and the commission*~~The members~~ shall elect *annually* one (1) member *from among the remaining members* to serve as chair.

➔Section 7. KRS 260.861 is amended to read as follows:

- (1) The commission shall meet quarterly and may meet more often upon the call of the chair or by a majority of the members.
- (2) The commission shall be appointed and conduct the first meeting by July 1, 2001.
- (3) Except as provided in KRS 18A.200, members of the commission shall receive actual traveling expenses while attending meetings of the commission.
- (4) *Research and development related*~~Staff~~ services for the commission shall be provided by the *University of Kentucky Agricultural Experiment Station. Administrative support services shall be provided to the commission by the Department of Agriculture at the request of the commission, including but not limited to services relating to:*
 - (a) *Testing of industrial hemp;*
 - (b) *The processing of documents relating to the program of licensure;*
 - (c) *Financial accounting and recordkeeping, and other budgetary functions; and*
 - (d) *Meeting coordination and staffing.*
- (5) *Administrative expenses of the commission, including but not limited to expenses for the services outlined in subsection (4) of this section, shall be paid from the industrial hemp program fund established in Section 10 of this Act as approved by the commission.*

➔Section 8. KRS 260.863 is amended to read as follows:

~~(1) In addition to the report required in Section 4 of this Act, the commission shall develop recommendations on industrial hemp legislation by December 15, 2001, and annually thereafter shall report on the recommendations to the Governor, the Interim Joint Committee on Agriculture, the Interim Joint Committee on Natural Resources and Environment, and to the Legislative Research Commission with respect to industrial hemp policies and practices that will result in the proper legal growing, management, use, and marketing of the state's potential industrial hemp industry. These policies and practices shall, at a minimum, address the following:~~

- (1)~~{(a)}~~ Federal laws and regulatory constraints;
- (2)~~{(b)}~~ The economic and financial feasibility of an industrial hemp market in Kentucky;
- (3)~~{(c)}~~ Kentucky businesses that utilize industrial hemp;
- (4)~~{(d)}~~ Examination of research on industrial hemp production and utilization;
- (5)~~{(e)}~~ The potential for globally marketing Kentucky industrial hemp;
- (6)~~{(f)}~~ Feasibility study of private funding for the Kentucky industrial hemp research program;
- (7)~~{(g)}~~ Law enforcement concerns;
- (8)~~{(h)}~~ Statutory and regulatory schemes for growing of industrial hemp by private producers; and
- (9)~~{(i)}~~ Technical support and education about industrial hemp.

~~{(2) The commission shall also continue to monitor the research and development of industrial hemp in the United States and the Kentucky industrial hemp research program.}~~

➔Section 9. KRS 260.865 is amended to read as follows:

- (1) Kentucky shall adopt the federal rules and regulations that are currently enacted regarding industrial hemp and any subsequent changes thereto.
- (2) *Nothing in Sections 1 to 14 of this Act shall be construed to authorize any person to violate any federal rules or regulations.*
- (3) *If any part of Sections 1 to 14 of this Act conflicts with a provision of federal law relating to industrial hemp that has been adopted in Kentucky under this section, the federal provision shall control to the extent of the conflict.*

➔Section 10. KRS 260.869 is amended to read as follows:

- (1) There is established~~{and created}~~ in the State Treasury a *trust and agency* fund entitled the *industrial hemp program fund*, ~~["Industrial Hemp Program Fund"]~~ to *be administered by the commission for the purpose of covering*~~{provide funds to offset}~~ the costs of the *commission and the industrial hemp research* program, *as approved by the*~~{and the Kentucky Industrial Hemp}~~ commission.
- (2) The fund may receive state appropriations, gifts, grants, federal funds, and any other funds both public and private, *and shall receive all license application fees and license renewal fees collected by the commission.* Money deposited in the fund *is hereby appropriated for purposes set out in this section*~~{shall be disbursed by the State Treasurer upon the warrant of the Commissioner of Agriculture or the Commissioner's representative}~~.
- (3) *Notwithstanding KRS 45.229*, any unallocated or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9), and any *interest or other* income earned from the investments, along with the unallotted or unencumbered balances in the fund, shall not lapse *but shall be carried forward for purposes of the fund*~~{and shall be deemed a trust and agency account and made available solely for the purposes and benefits of the industrial hemp program}~~.

➔SECTION 11. A NEW SECTION OF KRS 260.850 TO 260.869 IS CREATED TO READ AS FOLLOWS:

- (1) *The commission shall establish a program of licensure to allow persons to grow industrial hemp in the Commonwealth, as provided in this section. The program shall include the following two (2) separate forms of licensure:*
 - (a) *An industrial hemp research program grower license, to allow a person to grow industrial hemp in this state in a controlled fashion solely and exclusively as part of the industrial hemp research program overseen by the commission. This form of licensure shall only be allowed subject to a grant of necessary permissions, waivers, or other form of valid legal status by the United States Drug Enforcement Agency or other appropriate federal agency pursuant to applicable federal laws relating to industrial hemp; and*
 - (b) *An industrial hemp grower license, to allow a person to grow industrial hemp in this state for any purpose. This form of licensure shall only be allowed subject to the authorization of legal industrial*

hemp growth and production in the United States under applicable federal laws relating to industrial hemp.

- (2) *Any person seeking to grow industrial hemp, whether as part of the industrial hemp research program or otherwise, shall apply to the commission for the appropriate license on a form provided by the commission. At a minimum, the application shall include:*
 - (a) *The name and mailing address of the applicant;*
 - (b) *The legal description and global positioning coordinates sufficient for locating the production fields to be used to grow industrial hemp. A license shall authorize industrial hemp propagation only on the land areas specified in the license;*
 - (c) *A signed statement indicating whether the applicant has ever been convicted of a felony or misdemeanor. A person with a prior felony drug conviction within ten (10) years of applying for a license under this section shall not be eligible for the license;*
 - (d) *Written consent allowing the Department of Kentucky State Police, if a license is ultimately issued to the applicant, to enter onto the premises on which the industrial hemp is grown to conduct physical inspections of industrial hemp planted and grown by the applicant, and to ensure compliance with the requirements of Sections 1 to 14 of this Act. No more than two (2) physical inspections shall be conducted under this paragraph per year, unless a valid search warrant for an inspection has been issued by a court of competent jurisdiction. All testing for THC levels shall be performed as provided in subsection (11) of this section;*
 - (e) *Any other information required by the commission; and*
 - (f) *The payment of a nonrefundable application fee, in an amount set by the commission and used to offset the cost of administering the licensure program.*
- (3) *The commission shall require a state or national criminal history background check by the Department of Kentucky State Police on all persons applying for licensure. The Department of Kentucky State Police may charge a fee, as established by the commission, to be paid by the applicant for the actual cost of processing the background check. A copy of the results of the background check shall be sent to the commission.*
- (4) *All license applications shall be processed as follows:*
 - (a) *Upon receipt of a license application, the commission shall forward a copy of the application to the Department of Kentucky State Police which shall initiate its review thereof;*
 - (b) *The Department of Kentucky State Police shall:*
 1. *Perform the required state or national criminal history background check of the applicant;*
 2. *Approve the application, if it is determined that the requirements relating to prior criminal convictions have been met; and*
 3. *Return all applications to the commission together with its findings and a copy of the state or national criminal history background check; and*
 - (c) *The commission shall review all license applications returned from the Department of Kentucky State Police. If the commission determines that all requirements have been met and that a license should be granted to the applicant, taking into consideration any prior convictions of the applicant, the commission shall approve the application for issuance of a license.*
- (5) *In the case of industrial hemp research program grower licenses, the provisions of subsection (4) of this section shall apply, except that the commission may approve licenses for only those selected growers whose demonstration plots will, in the discretion of the commission, advance the goals of the industrial hemp research program to the furthest extent possible based on location, soil type, growing conditions, various varieties of industrial hemp that may be suitable for various hemp products, and other relevant factors. The location, and the total number and acreage, of all demonstration plots to be grown by license holders shall be determined at the discretion of the commission.*
- (6) *The number of acres to be planted under each license shall be established by the commission.*
- (7) *Each license shall be valid for a period of one (1) year from the date of issuance, and may be renewed in successive years. Each annual renewal shall require the payment of a license renewal fee.*

- (8) *The commission shall, by administrative regulation, establish the fee amounts required for license applications and license renewals allowed under this section. All application and license renewal fees collected by the commission shall be deposited in the industrial hemp program fund established in Section 10 of this Act.*
- (9) *A copy of, or appropriate electronic record of, each license issued by the commission under this section shall be forwarded immediately to the sheriff of each county where the industrial hemp is licensed to be planted, grown, and harvested.*
- (10) *All records, data, and information filed in support of a license application shall be considered proprietary and subject to inspection only upon the order of a court of competent jurisdiction.*
- (11) *The commission shall be responsible for monitoring the industrial hemp grown by any license holder, and shall provide for random testing of the industrial hemp for compliance with THC levels and for other appropriate purposes at the cost of the license holder. The commission shall establish necessary testing criteria and protocols through promulgation of administrative regulations pursuant to Section 3 of this Act and in accordance with KRS Chapter 13A.*

➔SECTION 12. A NEW SECTION OF KRS 260.850 TO 260.869 IS CREATED TO READ AS FOLLOWS:

- (1) *A person shall obtain an industrial hemp grower license pursuant to Section 11 of this Act prior to planting or growing any industrial hemp in this state. An industrial hemp grower license holder who has planted and grown industrial hemp pursuant to a valid grower license may sell industrial hemp produced by the grower to any person engaged in agribusiness or other manufacturing for the purpose of processing or manufacturing that industrial hemp into hemp products.*
- (2) *A person granted an industrial hemp grower license shall:*
 - (a) *Maintain records that reflect compliance with Sections 1 to 14 of this Act, and with all other state laws regulating the planting and cultivation of industrial hemp;*
 - (b) *Retain all industrial hemp production records for at least three (3) years;*
 - (c) *Allow industrial hemp crops, throughout sowing, growing, and harvesting, to be inspected by and at the discretion of the commission or its designees, and the Department of Kentucky State Police and other law enforcement officers;*
 - (d) *File with the commission documentation indicating that the industrial hemp seeds planted were of a type and variety certified to have no more THC concentration than that adopted by federal law in the Controlled Substances Act, 21 U.S.C. secs. 801 et seq.;*
 - (e) *Notify the commission of the sale of any industrial hemp grown under the license and the names and addresses of the persons to whom the industrial hemp was sold; and*
 - (f) *Provide the commission with copies of any contracts between the licensee and any person to whom industrial hemp was sold.*
- (3) *The commission shall assist the grower with his or her compliance with the requirements of this section.*
- (4) *Any person licensed to grow industrial hemp under Sections 1 to 14 of this Act may import and resell industrial hemp seed that has been certified as having no more THC concentration than that adopted by federal law in the Controlled Substances Act, 21 U.S.C. secs. 801 et seq.*
- (5)
 - (a) *Only industrial hemp grower licensees or their designees or agents shall be permitted to transport industrial hemp off the premises of the licensee.*
 - (b) *When transporting industrial hemp off the premises of an industrial hemp grower licensee, the licensee or their designee or agent shall carry with them the licensing documents from the commission, evidencing that the industrial hemp was grown by a licensee and is from certified seed.*
 - (c) *Any industrial hemp that is found in this state at any location off the premises of an industrial hemp grower licensee is deemed to be contraband and subject to seizure by the commission, the Department of Kentucky State Police, or any law enforcement officer, if the person in possession of the industrial hemp does not have in his or her possession either:*
 1. *The proper licensing documents, as required by paragraph (b) of this subsection; or*

2. *A bill of lading, or other proper documentation, demonstrating that the industrial hemp was legally imported or is otherwise legally present in this state under applicable state and federal laws relating to industrial hemp.*
- (d) *Any industrial hemp seized pursuant to paragraph (c) of this subsection shall be disposed of in accordance with KRS 500.090.*

➔SECTION 13. A NEW SECTION OF KRS 260.850 TO 260.869 IS CREATED TO READ AS FOLLOWS:

- (1) *An industrial hemp grower licensee who does not comply with the requirements of Sections 1 to 14 of this Act, or the administrative regulations promulgated thereunder, shall have his or her license revoked and shall forfeit the right to grow industrial hemp in this state for a period of up to five (5) years as provided in this section.*
- (2) *A license revocation or forfeiture shall occur pursuant to this section only after the licensee has had an opportunity, upon due notice, for an informal hearing before the chair of the commission, to show cause why the license should not be revoked and the licensee's right to grow forfeited.*
- (3) *The chair of the commission may revoke any license of a person who has pled guilty to, or been convicted of, a felony.*
- (4) *If a license is revoked and a licensee's right to grow is forfeited as the result of an informal hearing, the decision may be appealed, and upon appeal an administrative hearing shall be conducted before the commission in accordance with KRS Chapter 13B.*
- (5) *The licensee may appeal the final order of the commission by filing a petition in the Fayette Circuit Court, or the Circuit Court in which the licensee resides, in accordance with KRS Chapter 13B.*

➔SECTION 14. A NEW SECTION OF KRS 260.850 TO 260.869 IS CREATED TO READ AS FOLLOWS:

Industrial hemp growers licensed under Sections 1 to 14 of this Act may be eligible to receive funds received by the state under the Master Settlement Agreement and placed in the rural development fund established in KRS 248.655.

➔Section 15. KRS 218A.010 is amended to read as follows:

- (1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:
 - (a) A practitioner or by his or her authorized agent under his or her immediate supervision and pursuant to his or her order; or
 - (b) The patient or research subject at the direction and in the presence of the practitioner;
- (2) "Anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone that promotes muscle growth and includes those substances listed in KRS 218A.090(5) but does not include estrogens, progestins, and anticosteroids;
- (3) "Cabinet" means the Cabinet for Health and Family Services;
- (4) "Child" means any person under the age of majority as specified in KRS 2.015;
- (5) "Cocaine" means a substance containing any quantity of cocaine, its salts, optical and geometric isomers, and salts of isomers;
- (6) "Controlled substance" means methamphetamine, or a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue;
- (7) (a) "Controlled substance analogue," except as provided in paragraph (b) of this subsection, means a substance:
 1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and
 2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or

3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.
- (b) Such term does not include:
1. Any substance for which there is an approved new drug application;
 2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such exemption; or
 3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance;
- (8) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance;
- (9) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;
- (10) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V controlled substance to or for the use of an ultimate user;
- (11) "Distribute" means to deliver other than by administering or dispensing a controlled substance;
- (12) "Dosage unit" means a single pill, capsule, ampule, liquid, or other form of administration available as a single unit;
- (13) "Drug" means:
- (a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;
 - (b) Substances intended for use in the diagnosis, care, mitigation, treatment, or prevention of disease in man or animals;
 - (c) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and
 - (d) Substances intended for use as a component of any article specified in this subsection.
- It does not include devices or their components, parts, or accessories;
- (14) "Good faith prior examination," as used in KRS Chapter 218A and for criminal prosecution only, means an in-person medical examination of the patient conducted by the prescribing practitioner or other health-care professional routinely relied upon in the ordinary course of his or her practice, at which time the patient is physically examined and a medical history of the patient is obtained. "In-person" includes telehealth examinations. This subsection shall not be applicable to hospice providers licensed pursuant to KRS Chapter 216B;
- (15) "Hazardous chemical substance" includes any chemical substance used or intended for use in the illegal manufacture of a controlled substance as defined in this section or the illegal manufacture of methamphetamine as defined in KRS 218A.1431, which:
- (a) Poses an explosion hazard;
 - (b) Poses a fire hazard; or
 - (c) Is poisonous or injurious if handled, swallowed, or inhaled;
- (16) "Heroin" means a substance containing any quantity of heroin, or any of its salts, isomers, or salts of isomers;
- (17) "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the

manufacture of a controlled substance or methamphetamine, the control of which is necessary to prevent, curtail, or limit manufacture;

- (18) "Intent to manufacture" means any evidence which demonstrates a person's conscious objective to manufacture a controlled substance or methamphetamine. Such evidence includes but is not limited to statements and a chemical substance's usage, quantity, manner of storage, or proximity to other chemical substances or equipment used to manufacture a controlled substance or methamphetamine;
- (19) "Isomer" means the optical isomer, except as used in KRS 218A.050(3) and 218A.070(1)(d). As used in KRS 218A.050(3), the term "isomer" means the optical, positional, or geometric isomer. As used in KRS 218A.070(1)(d), the term "isomer" means the optical or geometric isomer;
- (20) "Manufacture," except as provided in KRS 218A.1431, means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:
- (a) By a practitioner as an incident to his or her administering or dispensing of a controlled substance in the course of his or her professional practice;
 - (b) By a practitioner, or by his or her authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or
 - (c) By a pharmacist as an incident to his or her dispensing of a controlled substance in the course of his or her professional practice;
- (21) "Marijuana" means all parts of the plant *Cannabis* sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances. ***The term "marijuana" does not include industrial hemp as defined in Section 1 of this Act;***
- (22) "Medical history," as used in KRS Chapter 218A and for criminal prosecution only, means an accounting of a patient's medical background, including but not limited to prior medical conditions, prescriptions, and family background;
- (23) "Medical order," as used in KRS Chapter 218A and for criminal prosecution only, means a lawful order of a specifically identified practitioner for a specifically identified patient for the patient's health-care needs. "Medical order" may or may not include a prescription drug order;
- (24) "Medical record," as used in KRS Chapter 218A and for criminal prosecution only, means a record, other than for financial or billing purposes, relating to a patient, kept by a practitioner as a result of the practitioner-patient relationship;
- (25) "Methamphetamine" means any substance that contains any quantity of methamphetamine, or any of its salts, isomers, or salts of isomers;
- (26) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
- (a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;
 - (b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a) of this subsection, but not including the isoquinoline alkaloids of opium;
 - (c) Opium poppy and poppy straw;
 - (d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
 - (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and

- (g) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (a) to (f) of this subsection;
- (27) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.030, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms;
- (28) "Opium poppy" means the plant of the species *papaver somniferum* L., except its seeds;
- (29) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;
- (30) "Physical injury" has the same meaning it has in KRS 500.080;
- (31) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;
- (32) "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy;
- (33) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, optometrist as authorized in KRS 320.240, advanced practice registered nurse as authorized under KRS 314.011, or other person licensed, registered, or otherwise permitted by state or federal law to acquire, distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state. "Practitioner" also includes a physician, dentist, podiatrist, veterinarian, or advanced practice registered nurse authorized under KRS 314.011 who is a resident of and actively practicing in a state other than Kentucky and who is licensed and has prescriptive authority for controlled substances under the professional licensing laws of another state, unless the person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail;
- (34) "Practitioner-patient relationship," as used in KRS Chapter 218A and for criminal prosecution only, means a medical relationship that exists between a patient and a practitioner or the practitioner's designee, after the practitioner or his or her designee has conducted at least one (1) good faith prior examination;
- (35) "Prescription" means a written, electronic, or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian, optometric practitioner, or advanced practice registered nurse, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;
- (36) "Prescription blank," with reference to a controlled substance, means a document that meets the requirements of KRS 218A.204 and 217.216;
- (37) "Presumptive probation" means a sentence of probation not to exceed the maximum term specified for the offense, subject to conditions otherwise authorized by law, that is presumed to be the appropriate sentence for certain offenses designated in this chapter, notwithstanding contrary provisions of KRS Chapter 533. That presumption shall only be overcome by a finding on the record by the sentencing court of substantial and compelling reasons why the defendant cannot be safely and effectively supervised in the community, is not amenable to community-based treatment, or poses a significant risk to public safety;
- (38) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance;
- (39) "Recovery program" means an evidence-based, nonclinical service that assists individuals and families working toward sustained recovery from substance use and other criminal risk factors. This can be done through an array of support programs and services that are delivered through residential and nonresidential means;
- (40) "Salvia" means *Salvia divinorum* or Salvinorin A and includes all parts of the plant presently classified botanically as *Salvia divinorum*, whether growing or not, the seeds thereof, any extract from any part of that plant, and every compound, manufacture, derivative, mixture, or preparation of that plant, its seeds, or its extracts, including salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation of that plant, its seeds, or extracts. The term shall not include any other species in the genus *salvia*;
- (41) "Second or subsequent offense" means that for the purposes of this chapter an offense is considered as a second or subsequent offense, if, prior to his or her conviction of the offense, the offender has at any time been

convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a nontrafficking offense shall be treated as a prior offense only when the subsequent offense is a nontrafficking offense. For the purposes of this section, a conviction voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under this chapter;

- (42) "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution;
- (43) "Serious physical injury" has the same meaning it has in KRS 500.080;
- (44) "Synthetic cannabinoids or piperazines" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law, that contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-211); or any compound in the following structural classes:
- (a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, and AM-2201;
 - (b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to JWH-167, JWH-250, JWH-251, and RCS-8;
 - (c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and RCS-4;
 - (d) Cyclohexylphenols: Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not substituted in the cyclohexyl ring to any extent. Examples of this structural class include but are not limited to CP 47,497 and its C8 homologue (cannabicyclohexanol);
 - (e) Naphthylmethylindoles: Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-175, JWH-184, and JWH-185;
 - (f) Naphthoylpyrroles: Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-368;
 - (g) Naphthylmethylindenes: Any compound containing a 1-(1-naphthylmethyl)indene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-176; or

- (h) Any other synthetic cannabinoid or piperazine which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law;
- (45) "Synthetic cathinones" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law (not including bupropion or compounds listed under a different schedule) structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in one (1) or more of the following ways:
- (a) By substitution in the ring system to any extent with alkyl, alkylendioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one (1) or more other univalent substituents. Examples of this class include but are not limited to 3,4-Methylenedioxcathinone (bk-MDA);
 - (b) By substitution at the 3-position with an acyclic alkyl substituent. Examples of this class include but are not limited to 2-methylamino-1-phenylbutan-1-one (buphedrone);
 - (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure. Examples of this class include but are not limited to Dimethylcathinone, Ethcathinone, and α -Pyrrolidinopropiophenone (α -PPP); or
 - (d) Any other synthetic cathinone which is not approved by the United States Food and Drug Administration or, if approved, is not dispensed or possessed in accordance with state or federal law;
- (46) "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic cathinones;
- (47) "Telehealth" has the same meaning it has in KRS 311.550;
- (48) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant *Cannabis*, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:
- (a) Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
 - (b) Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and
 - (c) Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;
- (49) "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, or sell a controlled substance;
- (50) "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution; and
- (51) "Ultimate user" means a person who lawfully possesses a controlled substance for his or her own use or for the use of a member of his or her household or for administering to an animal owned by him or her or by a member of his or her household.
- ➔Section 16. KRS 154.32-010 is amended to read as follows:
- (1) "Activation date" means the date established in the tax incentive agreement that is within two (2) years of final approval;
 - (2) "Advance disbursement" means the disbursement of incentives prior to the activation date;
 - (3) "Affiliate" has the same meaning as in KRS 154.48-010 and, in addition, shall include two (2) or more limited liability companies if the same persons own more than fifty percent (50%) of the capital interest or are entitled to more than fifty percent (50%) of the capital profits in the limited liability companies;
 - (4) "Agribusiness" means the processing of raw agricultural products, including ***but not limited to timber and industrial hemp***, or the performance of value-added functions with regard to raw agricultural products;
 - (5) "Approved company" means an eligible company that has received final approval to receive incentives under this subchapter;
 - (6) "Approved costs" means the amount of eligible costs approved by the authority at final approval;
 - (7) "Authority" means the Kentucky Economic Development Finance Authority established by KRS 154.20-010;

- (8) "Capital lease" means a lease classified as a capital lease by the Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976, as amended;
- (9) "Commonwealth" means the Commonwealth of Kentucky;
- (10) "Confirmed approved costs" means:
- (a) For owned economic development projects, the documented eligible costs incurred on or before the activation date; or
 - (b) For leased economic development projects:
 - 1. The documented eligible costs incurred on or before the activation date; and
 - 2. Estimated rent to be incurred by the approved company throughout the term of the tax incentive agreement.

For both owned and leased economic development projects, "confirmed approved costs" may be less than approved costs, but shall not be more than approved costs;

- (11) "Department" means the Department of Revenue;
- (12) "Economic development project" means:
- (a)
 - 1. The acquisition, leasing, or construction of a new facility; or
 - 2. The acquisition, leasing, rehabilitation, or expansion of an existing facility; and
 - (b) The installation and equipping of the facility;

by an eligible company. "Economic development project" does not include any economic development project that will result in the replacement of facilities existing in the Commonwealth, except as provided in KRS 154.32-060;

- (13) (a) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or any other entity with a proposed economic development project that is engaged in or is planning to be engaged in one (1) or more of the following activities within the Commonwealth:
- 1. Manufacturing;
 - 2. Agribusiness;
 - 3. Nonretail service or technology; or
 - 4. National or regional headquarters operations, regardless of the underlying business activity of the company.
- (b) "Eligible company" does not include companies where the primary activity to be conducted within the Commonwealth is forestry, fishing, mining, coal or mineral processing, the provision of utilities, construction, wholesale trade, retail trade, real estate, rental and leasing, educational services, accommodation and food services, or public administration services;

- (14) "Eligible costs" means:
- (a) For owned economic development projects:
 - 1. Start-up costs;
 - 2. Obligations incurred for labor and amounts paid to contractors, subcontractors, builders, and materialmen in connection with the economic development project;
 - 3. The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;
 - 4. The cost of contract bonds and of insurance of all kinds that may be required or necessary for completion of an economic development project which is not paid by a contractor or otherwise provided for;
 - 5. All costs of architectural and engineering services, including test borings, surveys, estimated plans and specifications, preliminary investigations, and supervision of construction, as well as

for the performance of all the duties required for construction of the economic development project;

6. All costs which are required to be paid under the terms of any contract for the economic development project;
 7. All costs incurred for construction activities, including site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and providing drainage and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electric, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; construction and installation of railroad spurs as needed to connect the economic development project to existing railways; or similar activities as the authority may determine necessary for construction of the economic development project; and
 8. All other costs of a nature comparable to those described above; and
- (b) For leased economic development projects:
1. Start-up costs; and
 2. Fifty percent (50%) of the estimated annual rent for each year of the tax incentive agreement.

Notwithstanding any other provision of this subsection, for economic development projects that are not in enhanced incentive counties, the cost of equipment eligible for recovery as an eligible cost shall not exceed twenty thousand dollars (\$20,000) for each new full-time job created as of the activation date;

- (15) "Employee benefits" means nonmandated payments by an approved company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k), or similar plans;
- (16) "Enhanced incentive counties" means counties certified by the authority pursuant to KRS 154.32-050;
- (17) "Final approval" means the action taken by the authority authorizing the eligible company to receive incentives under this subchapter;
- (18) "Full-time job" means a job held by a person who:
 - (a) Is a Kentucky resident subject to the Kentucky individual income tax imposed by KRS 141.020; and
 - (b) Is required to work a minimum of thirty-five (35) hours per week;
- (19) "Incentives" means the incentives available under this subchapter, as listed in KRS 154.32-020(3);
- (20) "Job target" means the annual average number of new full-time jobs that the approved company commits to create and maintain at the economic development project, which shall not be less than ten (10) new full-time jobs;
- (21) "Kentucky gross receipts" has the same meaning as in KRS 141.0401;
- (22) "Kentucky gross profits" has the same meaning as in KRS 141.0401;
- (23) "Lease agreement" means an agreement between an approved company and an unrelated entity conveying the right to use property, plant, or equipment, the terms of which reflect an arms' length transaction. "Lease agreement" does not include a capital lease;
- (24) "Leased project" means an economic development project site occupied by an approved company pursuant to a lease agreement;
- (25) "Loan agreement" means the agreement between the authority and a preliminarily approved company establishing the terms and conditions of an advance disbursement;
- (26) "Manufacturing" means any activity involving the processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property and any activity related to the processing, assembling, or production of property. "Manufacturing" also includes storage, warehousing, distribution, and office activities related to the manufacturing activity;
- (27) "Minimum wage target" means the average minimum wage amount that the approved company commits to meet for all new full-time jobs created and maintained as a result of the economic development project, which shall not be less than:

- (a) One hundred twenty-five percent (125%) of the federal minimum wage in enhanced incentive counties; or
 - (b) One hundred fifty percent (150%) of the federal minimum wage in all other counties;
- (28) (a) "Nonretail service or technology" means any activity where:
- 1. Service or technology is:
 - a. Provided predominantly outside the Commonwealth; and
 - b. Designed to serve a multistate, national, or international market; or
 - 2. Service or technology is provided by a national or regional headquarters as a support to other business activities conducted by the eligible company.
- (b) "Nonretail service or technology" includes but is not limited to call centers, centralized administrative or processing centers, telephone or Internet sales order or processing centers, distribution or fulfillment centers, data processing centers, research and development facilities, and other similar activities;
- (29) "Owned project" means an economic development project owned in fee simple by the approved company or an affiliate, or possessed by the approved company or an affiliate pursuant to a capital lease;
- (30) "Preliminary approval" means the action taken by the authority preliminarily approving an eligible company for incentives under this subchapter;
- (31) "Rent" means the actual annual rent or fee paid by an approved company under a lease agreement;
- (32) "Start-up costs" means costs incurred to furnish and equip a facility for an economic development project, including costs incurred for:
- (a) Computers, furnishings, office equipment, manufacturing equipment, and fixtures;
 - (b) The relocation of out-of-state equipment; and
 - (c) Nonrecurring costs of fixed telecommunications equipment;
- as certified to the authority in accordance with KRS 154.32-030;
- (33) "Tax incentive agreement" means the agreement entered into pursuant to KRS 154.32-040 between the authority and an approved company; and
- (34) "Term" means the period of time for which a tax incentive agreement may be in effect, which shall not exceed fifteen (15) years for an economic development project located in an enhanced incentive county, or ten (10) years for an economic development project not located in any other county.

➔Section 17. The Cabinet for Economic Development shall work in conjunction with the Industrial Hemp Commission to promote the development of industrial hemp production in the Commonwealth, and the commercialization of hemp products in agribusiness, alternative fuel production, and other business sectors, to the greatest extent possible. The Cabinet shall promote the availability of financial incentives offered by state government for the processing and manufacture of industrial hemp into hemp products in the Commonwealth, including but not limited to incentives offered through the Kentucky Business Investment program, to any interested parties both within and without this state.

Became law without Governor's signature.